



## LODI CITY COUNCIL

Carnegie Forum  
305 West Pine Street, Lodi

## AGENDA – REGULAR MEETING

Date: November 18, 2009

Time: Closed Session 6:00 p.m.  
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

**Randi Johl, City Clerk**  
**Telephone: (209) 333-6702**

**6:55 p.m. Invocation/Call to Civic Responsibility.** Invocations may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. Invocations are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Invocation Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any speaker.

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

### **C-1 Call to Order / Roll Call**

### **C-2 Announcement of Closed Session**

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6

### **C-3 Adjourn to Closed Session**

**NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.**

### **C-4 Return to Open Session / Disclosure of Action**

#### **A. Call to Order / Roll call**

#### **B. Pledge of Allegiance**

#### **C. Presentations**

- C-1 Awards – None
- C-2 Proclamations – None
- C-3 Presentations – None

#### **D. Consent Calendar (Reading; Comments by the Public; Council Action)**

- D-1 Receive Register of Claims in the Amount of \$1,283,722.37 (FIN)
- D-2 Approve Minutes (CLK)
  - a) October 21, 2009 (Regular Meeting)
  - b) October 27, 2009 (Shirtsleeve Session)
  - c) November 3, 2009 (Shirtsleeve Session)
  - d) November 10, 2009 (Shirtsleeve Session)

Res. D-3 Adopt Resolution Approving City of Lodi Annual Investment Policy and Internal Control Guidelines (CM)

- Res. D-4 Adopt Resolution Approving Purchase of Sign-Making Equipment from Denco Sales Company, of Concord (\$25,208), and Appropriating Funds (\$30,000) (PW)
- Res. D-5 Adopt Resolution Awarding the Contract for Hale Park, 209 East Locust Street, and Blakely Park, 1050 South Stockton Street, Playground Surfacing Improvements to Diede Construction, of Woodbridge (\$73,442), and Appropriating Funds (\$88,000) (PR)
- Res. D-6 Adopt Resolution Approving Contract Change Order to West Coast Arborist Contract for Tree Trimming Services (\$20,265) and Appropriating Funds (\$22,300) (PW)
- D-7 Accept Improvements under Contract for Wastewater Infrastructure Replacement Program (Project No. 4) Project (PW)
- Res. D-8 Adopt Resolution Accepting Cable Rejuvenation under Contract with Novinium, Inc. for Royal Crest Subdivision (EUD)
- D-9 Accept Five Machettes of "Celebrate the Harvest" Sculpture by Artist, Rowland Cheney (COM)
- Res. D-10 Adopt Resolution Opposing the "New Two-Thirds Vote Requirement for Public Electricity Providers" Initiative (EUD)
- Res. D-11 Adopt Resolution in Support of the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010 (CM)

**E. Comments by the Public on Non-Agenda Items**

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

**F. Comments by the City Council Members on Non-Agenda Items**

**G. Comments by the City Manager on Non-Agenda Items**

**H. Public Hearings**

- H-1 Public Hearing to Consider Unmet Transit Needs in Lodi (PW)
- Ord. H-2 Receive Preliminary Report and Open and Continue Public Hearing to Introduce Ordinance (Introduce) Amending Chapter 13.20, "Electrical Service," Sections 225 and 227 Titled, "Schedule NEM – Net Energy Metering" and "Schedule CEM – Co-Energy Metering Rider" (EUD)

**I. Communications**

- I-1 Claims Filed Against the City of Lodi – None
- I-2 Appointments
- a) Appointment to the Lodi Budget/Finance Committee: *Bud Mullanix* (CLK)
- I-3 Miscellaneous – None

**J. Regular Calendar**

- Ord. J-1 Introduce Ordinance Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and (Introduce) Welfare – by Repealing and Reenacting Chapter 9.18, "Vending on Streets, Sidewalks, and Private Property," in its Entirety (CA)
- Res. J-2 Adopt Resolution Setting Forth the City of Lodi's Commitment to Obesity Prevention as Outlined in the Healthy Eating Active Living (HEAL) Campaign (CM)

- J-3 Report on October 16, 2009, Downtown Summit (CM)
- Res. J-4 Adopt Resolution Approving Side Letter Amending the 2008-2010 Memorandum of Understanding between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operations Unit (CM)
- J-5 Consider Holding a Special City Council Meeting to Discuss the Possibility of Developing a New Proposed Redevelopment Project/Tax Increment Plan (CM)
- J-6 Approve the "Holiday at the Lake" Event for December 11 – 12, 2009 (COM)
- J-7 Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$3,672.99) (CA)

**K. Ordinances**

- Ord. K-1 Adopt Ordinance No. 1826 Entitled, "An Ordinance of the City Council of the City of Lodi  
(Adopt) Amending Lodi Municipal Code Title 5 – Permits and Regulations – by Adding Chapter 5.17, "State Video Franchises" (CLK)

**L. Adjournment**

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

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Randi Johl  
City Clerk



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Receive Register of Claims Dated October 22 and October 29, 2009 in the Total Amount of \$1,283,722.37

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Financial Services Manager

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**RECOMMENDED ACTION:** Receive the attached Register of Claims for \$1,283,722.37.

**BACKGROUND INFORMATION:** Attached is the Register of Claims in the amount of \$1,283,722.37 dated 10/22/09 and 10/29/09. Also attached is Payroll in the amount of \$1,284,310.47.

**FISCAL IMPACT:** n/a

**FUNDING AVAILABLE:** As per attached report.

\_\_\_\_\_  
Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager



Accounts Payable  
Council Report

Page 1  
Date - 11/03/09  
Amount

As of Thursday	Fund	Name	Amount
10/22/09	00100	General Fund	405,339.51
	00160	Electric Utility Fund	36,167.44
	00161	Utility Outlay Reserve Fund	19,502.31
	00164	Public Benefits Fund	2,623.69
	00170	Waste Water Utility Fund	11,447.71
	00171	Waste Wtr Util-Capital Outlay	31,251.73
	00172	Waste Water Capital Reserve	7,356.85
	00180	Water Utility Fund	7,587.01
	00182	IMF Water Facilities	2,043.00
	00210	Library Fund	4,442.47
	00211	Library Capital Account	4,759.95
	00260	Internal Service/Equip Maint	22,957.59
	00270	Employee Benefits	18,139.38
	00310	Worker's Comp Insurance	35,255.33
	00321	Gas Tax	2,251.71
	00326	IMF Storm Facilities	327.61
	00330	RTIF County/COG	5,505.25
	00340	Comm Dev Special Rev Fund	6,399.62
	00345	Community Center	4,990.59
	00346	Recreation Fund	4,549.47
	00459	H U D	799.00
	00501	Lcr Assessment 95-1	1,469.46
	00502	L&L Dist Z1-Almond Estates	346.19
	00503	L&L Dist Z2-Century Meadows I	220.17
	00506	L&L Dist Z5-Legacy I,II,Kirst	569.78
	00507	L&L Dist Z6-The Villas	478.86
	00509	L&L Dist Z8-Vintage Oaks	185.24
	01212	Parks & Rec Capital	
	01250	Dial-a-Ride/Transportation	6,380.60
	01410	Expendable Trust	39,039.35
Sum			672,405.69
	00190	Central Plume	332.00
Sum			332.00
Total for Week			
Sum			672,737.69

Accounts Payable  
Council Report

Page - 1  
Date - 11/03/09  
Amount

As of Thursday	Fund	Name	Amount
10/29/09	00100	General Fund	409,916.86
	00160	Electric Utility Fund	14,156.85
	00161	Utility Outlay Reserve Fund	3,984.54
	00164	Public Benefits Fund	933.70
	00170	Waste Water Utility Fund	9,343.73
	00172	Waste Water Capital Reserve	35,416.39
	00180	Water Utility Fund	1,996.02
	00181	Water Utility-Capital Outlay	9,475.23
	00182	IMF Water Facilities	84.00
	00210	Library Fund	460.38
	00211	Library Capital Account	3,629.81
	00260	Internal Service/Equip Maint	855.72
	00270	Employee Benefits	46,697.29
	00321	Gas Tax	5,566.98
	00325	Measure K Funds	2,582.47
	00340	Comm Dev Special Rev Fund	800.71
	00345	Community Center	3,926.64
	00346	Recreation Fund	3,220.10
	00459	H U D	2,889.00
	01212	Parks & Rec Capital	2,211.00
	01214	Arts in Public Places	40,012.64
	01250	Dial-a-Ride/Transportation	8,452.12
	01410	Expendable Trust	4,372.50
Sum			610,984.68
Total for Week			
Sum			610,984.68

## Council Report for Payroll

Page - 1  
Date 11/03/09

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	10/04/09	00100	General Fund	785,182.73
		00160	Electric Utility Fund	153,827.33
		00164	Public Benefits Fund	4,438.74
		00170	Waste Water Utility Fund	84,145.12
		00180	Water Utility Fund	1,789.12
		00210	Library Fund	27,766.65
		00235	LPD-Public Safety Prog AB 1913	2,537.73
		00260	Internal Service/Equip Maint	21,303.67
		00321	Gas Tax	45,242.20
		00340	Comm Dev Special Rev Fund	21,118.40
		00345	Community Center	25,409.17
		00346	Recreation Fund	56,177.93
		01250	Dial-a-Ride/Transportation	6,265.69
Pay Period Total:				
Sum				1,235,204.48
Retiree	11/30/09	00100	General Fund	49,105.99
Pay Period Total:				
Sum				49,105.99



# CITY OF LODI COUNCIL COMMUNICATION

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**AGENDA TITLE:** Approve Minutes  
a) October 21, 2009 (Regular Meeting)  
b) October 27, 2009 (Shirtsleeve Session)  
c) November 3, 2009 (Shirtsleeve Session)  
d) November 10, 2009 (Shirtsleeve Session)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Approve the following minutes as prepared:  
a) October 21, 2009 (Regular Meeting)  
b) October 27, 2009 (Shirtsleeve Session)  
c) November 3, 2009 (Shirtsleeve Session)  
d) November 10, 2009 (Shirtsleeve Session)

**BACKGROUND INFORMATION:** Attached are copies of the subject minutes marked Exhibit A through D.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** None required.

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Randi Johl  
City Clerk

Attachments

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, OCTOBER 21, 2009**

C-1 Call to Order / Roll Call

The Closed Session of October 21, 2009, regarding the topic below was canceled.

C-2 Announcement of Closed Session

a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Julie McDonnell against City of Lodi Based on Personal Injury

C-3 Adjourn to Closed Session - N/A

C-4 Return to Open Session / Disclosure of Action - N/A

A. Call to Order / Roll call

The Regular City Council meeting of October 21, 2009, was called to order by Mayor Hansen at 7:04 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Pastor Arlene Proctor, First Church of Christ Scientist

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations

a) Parks Superintendant Steve Dutra, representing the "Tree Lodi" organization, provided a brief presentation regarding the recent activities and accomplishments of the organization.

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Mounce made a motion, second by Council Member Johnson, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$6,950,375.56 (FIN)

Claims were received in the amount of \$6,950,375.56.

E-2 Approve Minutes (CLK)

The minutes of September 30, 2009 (Special Meeting), October 6, 2009 (Shirtsleeve Session), and October 13, 2009 (Shirtsleeve Session) were approved as written.

E-3 Authorize City "Garage Sale" of Surplus Furniture Items to be Held on Saturday, November 7, 2009, at the Municipal Service Center (PW)

Authorized the City "Garage Sale" of surplus furniture items to be held on Saturday, November 7, 2009, at the Municipal Service Center.

E-4 Approve Request for Proposals to Provide Professional Services for Preliminary Engineering Work on the Westside Substation (EUD)

Approved request for proposals to provide professional services for preliminary engineering work on the Westside Substation.

E-5 Adopt Resolution Approving Purchase Order with Synagro, of Burlingame, to Remove Approximately 500 Tons of Biosolids from White Slough Water Pollution Control Facility Storage Lagoon and Appropriating Funds (\$215,000) (PW)

Adopted Resolution No. 2009-138 approving purchase order with Synagro, of Burlingame, to remove approximately 500 tons of biosolids from White Slough Water Pollution Control Facility storage lagoon and appropriating funds in the amount of \$215,000.

E-6 Adopt Resolution Authorizing the Non-Competitive Purchase of Musco Sports Lighting Components (\$184,696), which Includes Installation to Musco Lighting, Oskaloosa, Iowa, for the Grape Bowl Sports Lighting Upgrade and Appropriate Project Funding (\$200,000) (PR)

Adopted Resolution No. 2009-139 authorizing the non-competitive purchase of Musco Sports Lighting Components in the amount of \$184,696, which includes installation, to Musco Lighting, of Oskaloosa, Iowa, for the Grape Bowl sports lighting upgrade and appropriate project funding in the amount of \$200,000.

E-7 Adopt Resolution Ratifying Purchase of Motorola Portable Radios Using Recovery Act Justice Assistance Grant Funding (\$62,196.30) (PD)

Adopted Resolution No. 2009-140 ratifying purchase of Motorola portable radios using Recovery Act Justice Assistance Grant funding in the amount of \$62,196.30.

E-8 Adopt Resolution Authorizing the Non-Competitive Purchase of Server Equipment and Related Software from Infinite Technology (Oakland), Dell, and CDW-G and Appropriate Energy Efficiency and Conservation Block Grant Funds (\$205,000) (CM)

Adopted Resolution No. 2009-141 authorizing the non-competitive purchase of server equipment and related software from Infinite Technology (Oakland), Dell, and CDW-G and appropriate Energy Efficiency and Conservation Block Grant funds in the amount of \$205,000.

- E-9 Adopt Resolution Accepting Improvements under Contract with Rosendin Electric, Inc. for Killelea Substation Rehabilitation (EUD)

Adopted Resolution No. 2009-142 accepting improvements under contract with Rosendin Electric, Inc. for Killelea Substation rehabilitation.

- E-10 Adopt Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of Lodi's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith (CM)

Adopted Resolution No. 2009-143 approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of Lodi's Proposition 1A Receivable from the State and directing and authorizing certain other actions in connection therewith.

- E-11 Adopt Resolution Authorizing Expenditure of Grant Funding and Authorizing the City Manager to Enter into a Contract with Cool the Earth, Inc., to Conduct a New Energy Education Pilot Program for the Electric Utility Department (EUD)

Adopted Resolution No. 2009-144 authorizing expenditure of grant funding and authorizing the City Manager to enter into a contract with Cool the Earth, Inc., to conduct a new Energy Education Pilot Program for the Electric Utility Department.

- E-12 Authorize Legal Transfer of Title of Ownership for Various City of Lodi Historical Documents to the San Joaquin County Historical Museum (CLK)

Authorized legal transfer of Title of Ownership for various City of Lodi historical documents to the San Joaquin County Historical Museum.

- E-13 Adopt Resolutions Amending the Order of Business for City Council Meetings and the City Council Protocol Manual and Adopt Council Policy Regarding Invocations (CA)

Adopted Resolution No. 2009-145 amending the Order of Business for City Council Meetings and the City Council Protocol Manual and adopted Resolution No. 2009-146 establishing Council Policy regarding invocations.

- E-14 Set Public Hearing for November 4, 2009, to Consider the Updated Planning Division's Hourly Rate and Setting Various Fire Inspection Fees (CD)

Set public hearing for November 4, 2009, to consider the updated Planning Division's hourly rate and setting various Fire inspection fees.

- E-15 Set Public Hearing for November 18, 2009, to Introduce Ordinance Amending Chapter 13.20, "Electrical Service," Section 225 and 227 Titled, "Schedule NEM - Net Energy Metering" and "Schedule CEM - Co-Energy Metering Rider" (EUD)

Set public hearing for November 18, 2009, to introduce an ordinance amending Chapter 13.20, "Electrical Service," Sections 225 and 227 Titled, "Schedule NEM - Net Energy Metering" and "Schedule CEM - Co-Energy Metering Rider."

- E-16 Set Public Hearing for November 18, 2009, to Consider Unmet Transit Needs in Lodi (PW)

Set public hearing for November 18, 2009, to consider unmet transit needs in Lodi.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Robin Rushing spoke in regard to his concerns about a medical marijuana patient and neighbor being treated questionably by the police officers who responded to a domestic call.

Samir Kharufeh spoke in regard to the benefits of a project labor agreement for the power plant at the White Slough Water Pollution Control Facility.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson commended the Streets Division for its response to the storm and the Electric Utility for keeping the power on and responding to outages. Mr. Johnson also discussed the costs associated with a new County jail and related survey, greater momentum for commuter rail coming through the City of Lodi, status of high-speed rail efforts, public pension related articles and referral of the issue to the Budget and Finance Committee for consideration.

Mayor Hansen commented on the recent article regarding his voting on a project labor agreement as the Chair of the Northern California Power Agency (NCPA) and specifically discussed labor costs with or without a project labor agreement, the requirement of prevailing wages, term requiring employees reside within a 50-mile radius of the City, the costs associated with abandoning the agreement, and the environmental benefits of building the plant.

H. Comments by the City Manager on Non-Agenda Items

City Manager King spoke in regard to the city of Stockton's ground breaking of the water treatment plant to be located near Mettler Road and Lower Sacramento Road on approximately 20 acres of land at a cost of near \$30 million.

I. Public Hearings

I-1 Public Hearing to Consider Resolution Modifying Transit Budget and Authorizing the City Manager to Implement Changes (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution modifying transit budget and authorizing the City Manager to implement changes.

City Manager King provided a brief introduction to the subject matter of the transit service modifications.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the proposed transit service modifications. Specific topics of discussion included the issue, ridership statistics, current service, financial statistics, Alternative A at a cost of \$438,400, Alternative B at



a cost of \$333,100, rider surveys, survey results, passenger usage for fixed routes, expressed routes, Dial-A-Ride, and VineLine and proposed action.

In response to Mayor Hansen, Mr. Sandelin stated approximately 102 passengers use the fixed route from 6:10 a.m. to 7:45 a.m. and 5 passengers use fixed route from 6:10 a.m. to 6:54 a.m., while the majority of passengers ride from 7:45 a.m. to 6:10 p.m.

In response to Council Member Hitchcock, Mr. Sandelin stated 21 of 80 passengers use the service from 9:15 a.m. and earlier on Saturday, only 6 surveyed said they would prefer to go earlier, and the others were willing to use a later service. Mr. King stated the current fiscal year gap is approximately \$333,000, which is closely aligned with Alternative B.

In response to Council Member Johnson, Mr. Sandelin stated there should be enough time to react to the November 1 date because doctors appointments can be rescheduled, the hours proposed for modification have relatively low ridership, staff can do public outreach, and waivers can be issued for the first month if necessary.

In response to Council Member Hitchcock, Mr. Sandelin stated the fare revenue is approximately \$300,000 of a \$3 million cost to operate, doubling fares is burdensome, fares are somewhat constricted, and fare hikes may decrease ridership.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated dispatchers are in the office until 6:10 p.m. and can schedule next day until that time.

In response to Council Member Johnson, Mr. King stated there is a basic assumption that State funding for Transportation Development Act (TDA) purposes will continue to be reduced over the next fiscal year.

In response to Council Member Mounce, Mr. Sandelin stated other transit agencies have used vouchers discounting 50% to 100% for a minimum amount of time, a budget can be established for a certain time period, and when funding for the program runs out the program ends.

Mayor Hansen opened the public hearing to receive public comment.

Clifford Weaver spoke in opposition to the proposed transit modifications based on his concerns regarding an ineffective survey, lack of options for disabled, and possible loss of ridership.

Lauren Kettner spoke in opposition to the proposed transit modifications based on his concerns regarding eliminating service on Sunday and meeting the needs of the disabled.

Jean Schmidt spoke in opposition to the proposed transit modifications based on her concerns regarding eliminating service on Sunday.

Brenda Lemos spoke in opposition to the proposed transit modifications based on her concerns regarding the need for service for school ridership and negative effects on drivers and jobs.

Wendy Jelks spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects on passengers from eliminating service.

Thomas Vickrey spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects of eliminating Dial-A-Ride for senior citizens and disabled passengers.

Joyce Looker spoke in opposition to the proposed transit modifications based on her concerns

regarding eliminating Dial-A-Ride and negative effective on disabled passengers, drivers, and caregivers.

Stacey Gongora spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride for disabled persons and their caregivers.

Karen Stewart spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride services for disabled passengers and caregivers who have to get to their jobs.

Adam Pack spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects of eliminating service for disabled passengers and the price of gasoline.

Sharon Boyd spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride service for disabled persons and the inability to meet a time deadline.

Patrick Hughes spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects of eliminating weekend service.

Sarah Aguinaga spoke in opposition to the proposed transit modifications based on her concerns regarding elimination of services that will result in children not getting to school and after school events. Mayor Hansen stated staff will provide some clarification regarding express routes and coverage.

Sean Reilly spoke in opposition to the proposed transit modifications based on his concerns regarding results of surveys and negative effects of eliminating Dial-A-Ride for disabled persons and drivers.

Christina Gonzalez spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride for riders, drivers, and students.

Colleen Molfino spoke in opposition to the proposed transit modifications based on her concerns regarding ineffectiveness of cabs and the need for Dial-A-Ride for disabled and negative effect on drivers.

David Williamson spoke in opposition to the proposed transit modifications based on his concerns regarding an ability to fund from General Fund, inability to pay current fares, and cutting administrative costs.

Cindy McDonald spoke in opposition to the proposed transit modifications based on her concerns regarding negative effect of eliminating Dial-A-Ride for dialysis patients.

Abby Weaver spoke in opposition to the proposed transit modifications based on her concerns regarding lack of taxis and negative effects on disabled persons and drivers.

Maxin Paate spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride on senior citizens and disabled persons.

Mary Fairfax spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride and Sunday service on drivers, senior citizens, and disabled persons.

Denise Stagno spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating Dial-A-Ride and Sunday service for disabled persons, drivers, and caregivers.

Larry Weatherspool spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects on eliminating services for disabled persons.

Kimberly Froberg spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating services for disabled persons and ability to get to community events.

Robin Rushing spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects of eliminating Dial-A-Ride services for disabled persons.

Anna Jammer spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects on disabled persons for eliminating services on weekends and evenings.

Asmir Masik spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects of eliminating service for school purposes.

Larry Gilam spoke in opposition to the proposed transit modifications based on his concerns regarding negative effects on school children, senior citizens, disabled persons and the need for transportation.

Felina Incinas spoke in opposition to the proposed transit modifications based on her concerns regarding negative effects of eliminating service for school children and drivers.

Mayor Hansen closed the public hearing after receiving no further public comment.

In response to Council Member Mounce, Mr. Sandelin stated riders can call the dispatcher to check on accommodations if a doctor's appointment runs late or concludes early.

In response to Council Member Mounce, Mr. Sandelin stated a Saturday 8 a.m. to 2 p.m. service could be considered at the same cost as an hour of increased service on either side would also increase costs of approximately \$10,000. Mr. Sandelin stated the three-hour Sunday service costs approximately \$75,000 and a fare increase for fixed route may be an option to offset that cost.

In response to Mayor Hansen, Mr. Sandelin stated Dial-A-Ride started in 1992, fixed route started in 1994, and in 1996 fixed route was outsourced.

In response to Mayor Hansen, Mr. Sandelin stated the service is funded by fares, TDA, transit and Measure K funds, and approximately 90% of the service is subsidized.

In response to Mayor Hansen, Mr. Sandelin stated fixed route service is \$1, Dial-A-Ride is \$1.50 for reservations, and \$3 for same day service. Mr. Sandelin stated the model considers the elimination of the same day service and a 50 cent increase is a temporary solution until the next round of budget cuts.

In response to Mayor Hansen, Mr. Sandelin confirmed staff received communication from San Joaquin Council of Governments in September that funds were going to be reduced and if we do not act immediately the cuts will be more extreme toward the latter months of the fiscal year.

In response to Mayor Hansen, Mr. Sandelin stated ridership dropped during the last fare increase in October 2004 at 23% on fixed route and 7% on Dial-A-Ride and the increase was 50 cents.

In response to Council Member Johnson, Mr. Sandelin confirmed that, while ridership dropped during the 2004 fare increase, revenues did increase slightly.

In response to Mayor Hansen, Mr. Sandelin stated the School District indicated that it did not reduce service since the City initiated fixed routes.

In response to Mayor Hansen, Mr. Sandelin stated the fixed route and express route are lumped together and increases would likely show the same numbers for both services.

In response to Mayor Hansen, Mr. Sandelin stated he is more comfortable with an additional hour on Saturday than he is with a fare increase to accommodate Sunday service.

In response to Council Member Hitchcock, Mr. King stated staff preferred that Council vote on one option tonight and allow staff to bring back options for Sunday service through a possible fare increase.

In response to Council Member Johnson, Mr. Schwabauer stated a public hearing is required for any fare increase.

In response to Council Member Hitchcock, Mr. King stated in light of the short time period and the need to make progress the preference is to implement Alternative B and bring back additional information regarding increasing hours on Saturday, providing some Sunday service, and increasing rates to offset the Sunday service.

Mayor Hansen made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2009-147 accepting Alternative B as recommended and directing staff to bring back to Council for further consideration options associated with increasing Saturday hours, providing some Sunday service, and possible fare increases.

**VOTE:**

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Johnson, and Council Member Mounce

Absent: None

**I-2 Public Hearing to Consider Introducing an Ordinance Amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and Adopt Resolution Setting the Development Fees for 2010 (CD)**

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider introducing an ordinance amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and adopt resolution setting the development fees for 2010.

Interim Community Development Director Rad Bartlam provided a brief presentation regarding the proposed ordinance amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and the setting of the development fees for 2010.

In response to Council Member Mounce, Mr. Bartlam stated the County collected virtually nothing in these fees last year due to the economic conditions.

Council Member Hitchcock made a motion, second by Council Member Mounce, to introduce Ordinance No. 1825 amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and adopt Resolution No. 2009-148 setting the Development Fees for 2010.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

Council Member Mounce made a motion, second by Council Member Johnson, to direct the City Clerk to post for the following expiring terms and vacancies:

Lodi Animal Advisory Commission

Rose Hilliard, Term to expire December 31, 2009

Phillip Laughlin, Term to expire December 31, 2009

Lodi Senior Citizens Commission

Winona Ellwein, Term to expire December 31, 2009

Phyllis Rabusin, Term to expire December 31, 2009

San Joaquin County Mosquito & Vector Control District

Jack Fiori, Term to expire December 31, 2009

San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee

Wade Broughton (Primary), Term to expire January 31, 2010

Randall S. Blank (Alternate), Term to expire January 31, 2010

Site Plan and Architectural Review Committee

Mitchell Slater, Term to expire January 1, 2010

Lodi Arts Commission

Laura Heinitz, Term to expire July 1, 2010

Lodi Library Board of Trustees

Claudia Maria Velez, Term to expire June 30, 2012

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to approve the Monthly Protocol Account report as presented.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K. Regular Calendar

K-1 Review of Potential Video Franchise Ordinance Establishing the Obligations of Cable Operators Providing Service in the City of Lodi Under a State Franchise Agreement (CM)

This item was continued until the next regularly scheduled City Council meeting.

K-2 Adopt Resolution Awarding Contract for Lodi Avenue Reconstruction Project, Union Pacific Railroad to Cherokee Lane (ESPL 5154 (036)), to Granite Construction Company, of Watsonville (\$2,098,885), and Appropriating Funds (\$2,518,662) (PW)

Public Works Director Wally Sandelin provided a brief PowerPoint presentation and specifically discussed project description, bid results, funding, and schedule.

In response to Council Member Hitchcock, Mr. Sandelin stated the City has previously dealt with the successful bidder and the wide range of bids is reflective of the current economy whereby some bidders removed the depreciation of equipment and similar items from the bid.

In response to Mayor Hansen, Mr. Sandelin stated staff is looking at improvements in the Central Avenue and Stockton Street area and will come back to Council with any changes in the future.

In response to Council Member Johnson, Mayor Hansen and Mr. King provided an overview of the process associated with obtaining the Measure K funds from San Joaquin Council of Governments, competing projects from other communities, and the general feeling of support for the project.

Council Member Mounce made a motion, second by Mayor Hansen, to adopt Resolution No. 2009-149 awarding the contract for Lodi Avenue Reconstruction Project, Union Pacific Railroad to Cherokee Lane (ESPL 5154 (036)), to Granite Construction Company, of Watsonville in the amount of \$2,098,885, and appropriating funds in the amount of \$2,518,662.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-3 Adopt Resolution Authorizing the City Manager to Execute an Option Agreement to Purchase Real Property Pursuant to the Terms of the Purchase and Development Agreement with Eden Development, Inc. Regarding Senior Housing Project at 2245

Tienda Drive (CD)

City Manager King briefly introduced the subject matter of the senior housing project item.

Interim Community Development Director Rad Bartlam provided a brief presentation regarding the proposed option agreement to purchase real property pursuant to the terms of the Purchase and Development Agreement with Eden Housing to construct a senior housing project on Tienda Drive.

In response to Council Member Hitchcock, Mr. Bartlam and Mr. Sandelin replied that the footage along the Tienda Drive frontage is approximately 300 feet, with another 200 feet of footage along the other side, and a depth of almost 730 feet.

In response to Mayor Hansen, Faye Blackman, representative from Eden Housing, stated the earliest that Phase II could start is one year after Phase I because the Department of Housing and Urban Development (HUD) process is completed annually.

In response to Council Member Johnson, Mr. Bartlam stated he has no reason to believe that Phase II would not be constructed. He stated since funding was successful for Phase I it should be successful for Phase II.

In response to Mayor Hansen, Ms. Blackman stated Fall 2011 is the earliest that construction on the project can begin consistent with the HUD process.

In response to Mayor Hansen, Ms. Blackman confirmed that the City will have another shot at the funding.

Mayor Hansen made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-150 authorizing the City Manager to execute an Option Agreement to purchase real property pursuant to the terms of the Purchase and Development Agreement with Eden Housing, Inc. regarding Senior Housing Project at 2245 Tienda Drive.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-4 Receive Report on Draft Environmental Impact Report Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility (CD)

This item was continued until the next regularly scheduled City Council meeting.

K-5 Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$1,653.43) (CA)

In response to Council Member Mounce, Mr. Schwabauer stated the Bridge City reference was related to the Donovan matter.

Council Member Mounce made a motion, second by Council Member Johnson, to approve legal expenses incurred by outside counsel/consultants relative to the environmental abatement program litigation in the amount of \$1,653.43.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: None

L. Ordinances

L-1 Adopt Ordinance No. 1824 Entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Title 16 - Subdivisions - By Adding New Sections 16.12.040 and 16.16.030, "Monuments"

Council Member Mounce made a motion, second by Council Member Johnson, to (following reading of the title) waive reading of the ordinance in full and adopt and order to print Ordinance No. 1824 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Title 16 - Subdivisions - by Adding New Sections 16.12.040 and 16.16.030, 'Monuments,'" which was introduced at a regular meeting of the Lodi City Council held October 7, 1009.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:08 p.m.

ATTEST:

Randi Johl  
City Clerk



**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, OCTOBER 27, 2009**

**A. Roll Call by City Clerk**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, October 27, 2009, commencing at 7:04 a.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

**B. Topic(s)**

**B-1 Report on Downtown Summit**

City Manager King introduced the subject matter of the Downtown Summit report and provided a PowerPoint presentation regarding the same. Specific topics of discussion included why have a downtown summit, the format of the event, where we want to be, recognition for downtown Lodi, what now, survey results, positives, needs, results applicable to visitor and business/property owners, ranking of priorities for business/property owners, leading barriers to financial success, needs to make a more friendly/vibrant downtown, Sacramento Street targeted for development, downtown needs for visitors, safety results, discussion group findings, priorities identified by a single group, and the next steps.

Michael Freedman provided a brief presentation and specifically discussed the progress that has been made in downtown since the first efforts were made, consumer preferences over the last decade, market forces taking place, downtown needs as they have progressed over the years, appearance and cleanliness of downtown, businesses to stay open on Sundays, and the overall need to focus on the most effective and highly desired items versus everything at once.

In response to Mayor Hansen, Mr. Freedman stated education is the key when it comes to solving parking challenges in that the active core of merchants need to understand for themselves the value associated with available parking spaces in front of their businesses. Mr. Freedman stated positive enforcement is preferred and for those merchants that choose not to participate a more aggressive parking enforcement mechanism may be needed.

In response to Mayor Hansen, Mr. Freedman stated economic development programs run by the City Manager's office are always more effective in light of the knowledge base and the enthusiasm from the City Manager himself.

In response to Council Member Hitchcock, Mr. Freedman stated the top things on the priority list for downtown revitalization could include high quality restaurants on School Street, selecting a property for a daytime anchor, getting that property ready, and working on national retailers.

In response to Council Member Hitchcock, Mr. King stated one way to work with property owners is to provide financial incentives such as what Mountain View did on Castro Street with the parking options and incentives.

In response to Council Member Johnson, Mr. Freedman stated the retail, entertainment, and activity uses should be concentrated on School Street, with a condominium focus on Sacramento

Street and Church Street in light of the commuter rail efforts and the housing market return over the next few years.

A brief discussion ensued among Council Member Mounce and Mr. King regarding the use of Art in Public Places funding and efforts, along with the Winegrape Commission and the Conference and Visitors Bureau, for directional signs to encourage downtown tourism in conjunction with the wine industry.

In response to Mayor Hansen, Mr. King stated there was general consensus among the groups at the summit that there should be an anchor and specialty shops.

In response to Council Member Hitchcock, Mr. King provided a brief overview of what a possible business improvement district could look like and specifically discussed current assessments through business licensing and property taxes, a governing board of directors, assessments paid based on proportionality, all property owners assessed without exception, and the preliminary idea coming from the business community with the City working with property owners and businesses to facilitate the district.

In response to Mayor Hansen, Mr. King stated he is not aware of any kiosk-related discussions that came up during the summit.

Phil Pennino spoke in favor of downtown revitalization efforts and specifically discussed the synergy among the property owners to move forward, efforts being made toward downtown appearance and cleanliness, facilitating groups coming together, the need to revisit parking issues, attracting a downtown anchor, possible housing efforts, lodging in downtown, and the creation of a business improvement district.

In response to Myrna Wetzel's question regarding out of town landlords, Mr. King stated the issue is more of any property owner being motivated enough to invest in the community when they are currently receiving an adequate return on their investment.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:30 a.m.

ATTEST:

Randi Johl  
City Clerk

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, NOVEMBER 3, 2009**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, November 3, 2009, commencing at 7:02 a.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: Council Member Mounce

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Presentation Concerning The Healthy Eating Active Living Campaign (HEAL) - What Lodi Can Do to Promote Healthy Active Lifestyles

City Manager King briefly introduced the subject matter of the "Healthy Eating Active Living" (HEAL) Campaign.

Kanat Tibet provided a PowerPoint presentation regarding the HEAL Campaign. Specific topics of discussion included the three-year grant for the project provided by Kaiser, obesity concerns in children, obesity statistics in the United States, costs associated with obesity and physical inactivity, environmental factors, healthy food alternatives, 2004 and 2006 League Annual Conference Resolutions, legislative efforts by California Center for Public Health Advocacy, campaign goals, campaign policy areas including general plans and zoning, healthy food access, and employee wellness, current cities participating in the campaign, and next steps for participation in the campaign.

In response to Council Member Johnson, Interim Community Development Director Rad Bartlam stated he is not sure where the City falls in comparison with respect to California's 4 to 1 statistics for the ratio of unhealthy to healthy food outlets.

In response to Mayor Hansen, Mr. Tibet confirmed there is a challenge associated with the availability of health food options versus fast food options and it does require a paradigm shift with respect to healthy eating, living actively, and public transit. Mr. Tibet also discussed the use of American Recovery Act funds to promote these types of activities.

Council Member Hitchcock and Mayor Hansen stated they would like the City to participate in the campaign to promote healthy eating and active living lifestyles in the community.

City Manager King provided a brief overview of how the campaign and policies are related to the community needs, land use options, pedestrian options, in a broad campaign adopting relevant policies, and the City serving as a leader in this area.

Council Member Johnson suggested implementing a healthy snack policy for City-facilities for children games and urging the Boosters of Boys/Girls Sports Organization to participate also.

In response to Council Member Hitchcock, Mr. Bartlam stated the subject matter of fast food restaurants did not come up as an issue in the General Plan update process.

In response to Mayor Hansen, Mr. King stated the next step would be to adopt a HEAL resolution, which is generally a statement of principles encouraging healthy eating and active living.

Myrna Wetzel suggested incorporating supermarkets and distributors into the healthy campaign efforts as well.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:53 a.m.

ATTEST:

Randi Johl  
City Clerk

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, NOVEMBER 10, 2009**

**A. Roll Call by City Clerk**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, November 10, 2009, commencing at 7:00 a.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: Council Member Mounce

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

**B. Topic(s)**

**B-1 Receive Operational/Financial Report for the Parks and Recreation Department (PR)**

City Manager King provided a brief introduction to the subject matter of the Parks and Recreation Department Annual Report for 2008-2009.

Interim Parks and Recreation Director Jim Rodems provided a PowerPoint presentation regarding the Annual 2008-2009 Report for Parks and Recreation Department. Specific topics of discussion included a department overview, special revenue department, final budget numbers for income and expenditures, program areas, Lodi Unified School District (LUSD) and after-school services, specialty classes, aquatics, registration fees, Hutchins Street Square pool operations, youth and teen sports, Boosters of Boys/Girls Sports (BOBS) Organization programs, attendance figures, park rentals, Lodi Lake, adult sports, goals for Recreation, division challenges, Parks Division tasks, budget, staff allocation, costs per acre, maintenance zones for parks, partnerships with other agencies, Parks challenges for 2009-2010, goals for Parks, and Recreation Commission accomplishments.

In response to Mayor Hansen, Mr. Rodems stated the boat rentals continue to increase but staff is working on revamping use hours to allow for usage after 5:30 p.m.

In response to Council Member Johnson, Mr. Rodems stated adult sports are self-sustaining and the goal would be to make them revenue generating.

In response to Council Member Hitchcock, Mr. Rodems stated the joint use agreement is an old document with numerous amendments and the biggest challenge is equitable access for the City with respect to space, specifically use of multi-purpose rooms and restrooms. Mr. Rodems stated it mostly affects after-school programs.

In response to Mayor Hansen, Mr. Rodems stated the City uses the two LUSD pools for aquatics programs and it is a necessity for the City's programs.

In response to Council Member Johnson, Mr. Rodems stated LUSD hires the City as a contractor to run the after-school Bridge program and LUSD receives the grant directly.

In response to Council Member Johnson, Mr. Rodems stated the relationships with the City staff and LUSD staff pertaining to the after-school program are amicable.

In response to Mayor Hansen, Mr. Rodems stated that, based on school district representations,

it is staff's understanding that the federal grant for after-school will continue and there is no connection with the Boys and Girls Club.

In response to Mayor Hansen, Mr. Rodems stated a certain number of maintenance hours would be required in conjunction with an Adopt-A-Park program. Mr. Rodems stated there is some general interest from community groups to adopt parks and staff continues to move forward on the program in an effort to start it in the spring after the maintenance standards program is in place.

In response to Council Member Johnson, Mr. Rodems stated 14 out of 28 parks have the Maxicom automated irrigation system currently.

In response to Council Member Hitchcock, Mr. Rodems provided an overview of the previous three-tier rate structure for residents, non-residents, and LUSD students and the current two-tier system of resident and non-resident.

In response to Council Member Hitchcock, Mr. Rodems stated he will forward to Council the comparison numbers for program participation over the last few years.

In response to Mayor Hansen, Mr. Rodems stated staff is looking at options for music or arts programs that the school district is dropping and that the City may be able to accommodate into its program structure.

In response to Council Member Johnson, Mr. Rodems stated staff will do a review of fees and compare them to surrounding communities and bring to Council a readjusted fee schedule in late winter.

In response to Mayor Hansen, Mr. Rodems stated the participation trends should stay the same for some time in light of the economy.

In response to Council Member Johnson, Mr. Rodems stated the BOBS and school district have not reduced their rental of facilities indicating some funds continue to be expended on programs.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:55 a.m.

ATTEST:

Randi Johl  
City Clerk



## CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution Approving the City of Lodi Annual Investment Policy and Internal Control Guidelines

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Deputy City Manager

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**RECOMMENDED ACTION:** Adopt resolution approving the City of Lodi annual investment policy and internal control guidelines.

**BACKGROUND INFORMATION:** California Government Code Section 53646 endorses an annual review of the City's investment policy by City Council. Accordingly, the attached policy is presented for Council review and approval.

The following changes are recommended for, and have been incorporated into, the text of the attached Investment Policy (please see highlights):

5. Prudence - The "prudent person" standard to be applied by the Treasurer has been replaced with the "prudent investor" standard. Text outlining this standard has been incorporated from the appropriate Government Code section.
6. Ethics and Conflicts of Interest - In addition to the Political Reform Act of 1974, a Government Code section further clarifying disclosure of material financial interests has been added.
10. Authorized Investments - Applicable Government Code sections specifying various forms of investment permitted by local governments have been clarified in this segment of the policy. Also clarified is the fact that the Local Agency Investment Fund (LAIF) recently raised the amount which may be placed in any given account from \$40 million to \$50 million.
12. Purchase of CDs from Local Institutions - The FDIC recently raised coverage limits on funds deposited (including CDs) in banking institutions. Language in this segment permits the City to invest up to these limits and to purchase additional CDs so long as they possess the safety, liquidity and rate of return comparable to that offered by LAIF.
13. Safekeeping and Collateralization - This segment clarifies that collateral requirements may be waived for deposits which are fully insured up to FDIC limits.
14. Administration - b. Bid - This segment requires three competitive bids to place all investment purchases.

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APPROVED: \_\_\_\_\_  
Blair King, City Manager

The policy is in compliance with state laws governing the investment of local agency funds and provides internal control guidelines to protect City of Lodi funds from misappropriation, speculation and fraud. The objectives of Lodi's investment policy remain, in priority order: safety, liquidity, and return. As part of the audit practices of the City's audit firm (Macias Gini & O'Connell LLP) the policy has been found to be in compliance with the requirements of Government Code Section 53601.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** N/A.

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Jordan Ayers  
Deputy City Manager

Attachment



RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY  
COUNCIL ADOPTING THE CITY OF LODI  
ANNUAL INVESTMENT POLICY AND  
INTERNAL CONTROL GUIDELINES

=====

WHEREAS, California Government Code Section 53646 endorses an annual review of a local agencies investment policy by the local legislative body; and

WHEREAS, the City of Lodi Investment Policy requires that the Investment Policy be annually reviewed in November and adopted by resolution; and

WHEREAS, the Policy, on file in the office of the City Clerk, is in compliance with State laws governing the investment of local agency funds and provides internal control guidelines to protect the funds of the City from misappropriation, speculation, and fraud.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi has reviewed and hereby adopts the City of Lodi Annual Investment Policy and Internal Control Guidelines, which shall be effective this date.

Dated: November 18, 2009

=====

I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2009-\_\_\_\_\_

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**CITY OF LODI**

**INVESTMENT POLICY**  
**AND**  
**INTERNAL CONTROL GUIDELINES**

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**INVESTMENT  
POLICIES**

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## INVESTMENT POLICY

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### 1. INTRODUCTION

The purpose of this policy is to state the City's policies and procedures to be used for the investment of surplus funds in a prudent and systematic manner conforming to all state and local statutes governing the investment of public funds. Safety of principal is given the highest priority. In addition, this statement is intended to formalize investment-related activities to provide the highest investment return with maximum security while meeting daily cash flow demands.

### 2. SCOPE

The investment policy applies to all funds under the direct authority of the Deputy City Manager/City Treasurer of the City of Lodi, including but not limited to the General Fund, Special Revenue Funds, Capital Project Funds, Enterprise Funds, Internal Service Funds and Trust and Agency Funds. All funds are accounted for in the City's Comprehensive Annual Financial Report. This policy is generally applicable to bond proceeds with consideration given to specific provisions of each issuance.

### 3. OBJECTIVES

Funds of the City will be invested with the following objectives in priority order:

#### **Safety:**

Safety of principal is the foremost objective of the investment program. Investments of the City of Lodi shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio. The City of Lodi will diversify its investments by security type and institution. Financial institutions and broker/dealers will be prequalified and monitored as well as investment instruments they propose.

#### **Liquidity:**

The investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which might be reasonably anticipated. This will be accomplished through maturity diversification in accordance with California Government Code 53635 and the State Local Agency Investment Fund with immediate withdrawal provision.

## INVESTMENT POLICY

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### **Return on Investments:**

The City's investment portfolio shall be invested to achieve a "bench marked average" rate of return through economic cycles, that will protect these funds from the effects of inflation and the risks associated with higher returns, as long as it does not diminish the objectives of Safety and Liquidity, while preserving and protecting capital in the overall portfolio.

The "bench marked average" rate of return targeted to achieve this objective is the annual rate of return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the "bench marked average" rate of return shall be sought.

## **4. DELEGATION OF AUTHORITY**

The Treasurer is designated by the authority of the legislative body as the investment officer of the City as provided for in Government Code Section 53607 and is responsible for the investment decisions and activities of the City. The Treasurer will develop and maintain written administrative procedures for the operation of the investment program, consistent with this investment policy. The Treasurer shall hereafter assume full responsibility for such transactions until such time as the delegation of authority is revoked, and shall make a monthly report of such transactions to the legislative body. In order to optimize total return through active portfolio management, daily activity may be delegated to the Budget Manager.

## **5. PRUDENCE**

The standard of prudence to be applied by the Treasurer will be the "prudent investor" standard, in accordance with Government Code Section 53600.3 which states "...all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law."

## INVESTMENT POLICY

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### **6. ETHICS AND CONFLICTS OF INTEREST**

The City Treasurer is governed by The Political Reform Act of 1974 regarding disclosure of material financial interests as well as Government Code Section 87103. The City Treasurer shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair the ability to make impartial investment decisions.

### **7. MONITORING AND ADJUSTING THE PORTFOLIO**

The Treasurer will routinely monitor the contents of the portfolio, the available markets and the relative values of competing instruments, and will adjust the portfolio accordingly.

### **8. INTERNAL CONTROLS**

The Treasurer will establish a system of written internal controls, which will be reviewed annually by the City's independent audit firm. The controls will be designed to prevent loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

### **9. REPORTING**

The Treasurer will submit a quarterly investment report to the City Council, in accordance with Government Code Section 53646, to disclose the following information:

- A listing of individual securities held at the end of the reporting period by authorized investment category.
- Percentage of the portfolio represented by each investment category.
- Institution
- Average life and final maturity of all investments listed.
- Coupon, discount or earnings rate.
- Par value or cost of the security
- Current market value of securities with maturity in excess of 12 months and the source of this valuation.
- Ability of the city to meet its expenditure requirements for the next six months or provide an explanation of why sufficient funds will not be available as required by Gov. Code 53646 (b)(3).

The quarterly investment report to the Lodi City Council, acting legislative authority, as required by Government Code Section 53646, will be in addition to the Treasurer's monthly report and accounting of all receipts, disbursements and fund balances.

**INVESTMENT POLICY**

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In addition, the investment policy will be submitted to the City Council annually in November. Any changes will be noted and formal adoption in the form of a resolution of the City Council is required.

**10. AUTHORIZED INVESTMENTS**

The City will invest surplus funds not required to finance the immediate needs of the City as provided in California Government Code Sections 16429.1, 53601, 53601.6, 53601.7, 53601.8, 53635, 53635.2, 53638 and 53684. In selecting authorized investments consideration must be given to credit ratings and collateralization of applicable instruments. A list of these instruments is provided below. These limitations, diversification and maturity scheduling will depend upon whether the funds being invested are considered short-term or long-term funds. All funds will be considered short-term except those reserved for capital projects (i.e. bond sale proceeds) and special assessment prepayments being held for debt retirement.

**Pooled Accounts**

The City of Lodi is authorized by policy, to invest in the Local Agency Investment Fund (LAIF), a voluntary program created by statute, which began in 1977 as an investment alternative for California's local governments and special districts and continues today under the State Treasurer's Administration. The enabling legislation of the LAIF is Section 16429.1,2,3 of the California Government Code.

The LAIF is part of the Pooled Money Investment Account (PMIA). The PMIA began in 1953 and has oversight provided by the Pooled Money Investment Board (PMIB) and an in-house Investment Committee. The PMIB members are the State Treasurer, Director of Finance, and State Controller.

All securities are purchased under the authority of Government Code Section 16430 and 16480.4. The State Treasurer's Office takes delivery of all securities purchased on a delivery versus payment basis using a third party custodian. All investments are purchased at market and market valuation is conducted monthly.

It has been determined that the State of California cannot declare bankruptcy under Federal regulations, thereby allowing the Government Code Section 16429.3 to stand. This Section states that "money placed with the state treasurer for deposit in the LAIF shall not be subject to either: (a) transfer or loan pursuant to Sections 16310, 16312, or 16313, or (b) impoundment or seizure by any state official or state agency."

The LAIF provides a book entitled "The Local Agency Investment Fund Answer Book" which resides in the City of Lodi Treasurer's office and provides current answers to the following questions, which are required prior to investing in any pooled/fund account.



## INVESTMENT POLICY

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- A description of eligible investment securities and a written statement of investment policy and objectives.
- A description of interest calculations and how it is distributed, and how gains and losses are treated.
- A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
- A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
- A schedule for receiving statements and portfolio listing.
- A fee schedule and when and how it is assessed.
- Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?

### Short-Term Portfolio Diversification

The City will diversify use of investment instruments to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions or maturities.

Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment will be made in any security which at the time of the investment has a term remaining to maturity in excess of five years, unless the City Council has granted express authority to make that investment either specifically or as part of an investment program and approved by the City Council no less than three months prior to the investment.

<b>Permitted Investments</b>	<b>Maximum Maturity</b>	<b>Percent of Portfolio</b>
U.S. Treasury Obligations (Bills, notes and bonds)	5 Years	100%
U.S. Government Agency Securities and Instrumentalities	5 Years	100%
Bankers Acceptances	180 days	40%
Certificates of Deposit	5 Years	100%
Negotiable Certificates of Deposit	5 Years	30%
Commercial Paper	270 days	40%
California State Local Agency Investment Fund	Indefinite	100%
Passbook Deposits	Indefinite	100%
Repurchase Agreements	Not Authorized	N/A
Reverse Repurchase agreements	Not Authorized	N/A
Mutual Funds	Indefinite	20%
Medium Term Notes	5 Years	30%

**INVESTMENT POLICY**

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The City Treasurer will not invest in Repurchase Agreements and Reverse Repurchase agreements. Pooled funds invested for the City by entities such as California State Local Agency Investment Fund, and NCPA may invest in repurchase and reverse repurchase agreements. If repurchase agreements are legal and authorized, by policy, a Master Repurchase Agreement must be signed with the bank or dealer.

**Diversification by Financial Institution**

Bankers' Acceptances (Bas)

No more than 25% of the total portfolio with any one institution.

Certificates of Deposit (CDs)

No more than 33% of the total portfolio with any one institution.

California State Local Agency Investment Fund

No more than \$50 million in any one account, effective November 16, 2009.

**Maturity Scheduling**

Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs, taking into account large routine expenditures (payroll, bond payments) as well as considering sizable blocks of anticipated revenue (taxes, franchise fees). Maturities in this category will be timed to comply with the following guidelines:

Under 30 days	10% minimum
Under 90 days	25% minimum
Under 270 days	50% minimum
Under 1 year	75% minimum
Under 18 months	90% minimum
Under 2 years	95% minimum
Under 5 years	100% minimum

**Long-Term Portfolio Diversification**

Investments and diversification for the long-term portfolio will be the same as the short-term portfolio. Maturity scheduling will be timed according to anticipated need. For example, investment of capital project funds will be timed to meet contractor payments, usually for a term not to exceed three years. Investment of prepaid assessment funds will be tied to bond payment dates, after cash flow projections are made using a forecasting model which considers prepayment rate, delinquency rate, interest on bonds and income on investments.

**11. BANKS AND SECURITY DEALERS**

The Treasurer will consider the credit worthiness of institutions in selecting financial institutions for the deposit or investment of City funds. These institutions will be monitored to ensure their continued stability and credit worthiness.

**INVESTMENT POLICY**

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Investment transactions will only be made with pre-approved financial institutions. Banks will provide their most recent Consolidated Report of Condition (“call report”) at the request of the Treasurer.

The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will be maintained of approved security brokers/dealers selected for credit worthiness, who maintain an office in the State of California. This includes primary dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with the following:

- Audited financial statements
- Proof of National Association of Security Dealers Certification.
- Trading Resolution
- Proof of State Registration
- Completed broker/dealer questionnaire
- Certification of having read the City of Lodi’s investment policy and depository contracts.

An annual review of the financial condition and registration of qualified bidders will be conducted by the Treasurer. The City will not normally use more than three qualified dealer/brokers to obtain bids.

**12. PURCHASE OF CDs FROM LOCAL INSTITUTIONS**

To the extent reasonable and within the limits specified above, the Treasurer may purchase a Certificate of Deposit, up to the amount fully insured by the Federal Deposit Insurance Corporation (FDIC), from each bank and savings and loan institution located within the corporate limits of the City to promote economic development and as a statement of support for those institutions maintaining an office in Lodi. These investments are limited to those institutions which offer Certificates of Deposit insured by the Federal Deposit Insurance Act and have a Community Reinvestment Act Rating of satisfactory or above.

To aid in the diversification of the portfolio, additional Certificates of Deposit in amounts up to fully insured FDIC limits, may be purchased from local institutions provided the investment has the safety, liquidity and a rate of return comparable to that offered from LAIF at the time the original investment is made.

## INVESTMENT POLICY

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### 13. SAFEKEEPING AND COLLATERIALIZATION

All investment securities purchased by the City will be held in third-party safekeeping by an institution designated as primary agent. The custodian will hold these securities in a manner that establishes the City's right of ownership. The primary agent will issue a safekeeping receipt to the City listing the specific instruments, rate, maturity and other pertinent information. Deposit type securities (i.e., certificates of deposit) will be collateralized.

Collateral for time deposits in savings and loans will be held by the Federal Home Loan Bank or an approved Agent of Depository. If collateral is government securities, 110% of market value to the face amount of the deposit is required. Promissory notes secured by first mortgages and first trust deeds used as collateral require 150% of market value to the face amount of the deposit. An irrevocable letter of credit issued by the Federal Home Loan Bank of San Francisco requires 105% of market value to the face amount of the public deposit.

The collateral for time deposits in banks should be held in the City's name in the bank's Trust Department, or alternately, in the Federal Reserve Bank. The City may waive collateral requirements for deposits which are fully insured up to limits prescribed by the FDIC.

The amount of securities placed with an agent of depository will at all times be maintained in accordance with California Government Code 53652.

### 14. ADMINISTRATION

The following administrative policies will be strictly observed:

#### a. **Payment**

All transactions will be executed on a delivery versus payment basis which should be done by the City's safekeeping agent.

#### b. **Bid**

A competitive bid process in which three competitive bids are obtained, when practical, will be used to place all investment purchases. If a specific maturity date is required, either for cash flow purposes or for conformance to maturity guidelines, bids will be requested for instruments which meet the maturity requirement. If no specific maturity is required, a market trend (yield curve) analysis will be conducted to determine which maturities would be most advantageous.

#### c. **Wire Transfers**

All wire transfers will be approved by the Treasurer or Budget Manager. The City's bank will verify each transaction with a predetermined City employee other than the individual sending the wire transfer.

**INVESTMENT POLICY**

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Pre-formatted wire transfers will be used to restrict the transfer of funds with preauthorized accounts only.

**d. Confirmations**

Receipts for confirmation of a purchase of authorized securities should include the following information: trade date; par value; maturity; rate; price; yield; settlement date; description of securities purchased; net amount due; third-party custodial information. Confirmations of all investment transactions are to be received by the Treasurer within three business days.

**e. Pooled Cash**

The City will consolidate into one bank account and invest on a pooled concept basis. Interest earnings will be allocated monthly based on current cash balances.

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**INTERNAL  
CONTROL**

## INTERNAL CONTROLS

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### GENERAL

Through this system of internal control, the City is adopting procedures and establishing safeguards to prevent or limit the loss of funds invested or held for investment due to errors, losses, misjudgments and improper acts. Internal control procedures are not intended to address every possible situation but are intended to provide a reasonable and prudent level of protection for the City's funds.

#### 1. Objectives

These procedures and policies are established to ensure:

- the orderly and efficient conduct of investment practices, including adherence to investment policies
- the safeguarding of surplus cash
- the prevention or detection of errors and fraud
- the accuracy and completeness of investment records
- the timely preparation of reliable investment reports.

#### 2. General Control Policies

The following policies are to be used to safeguard investments:

- **Organization**

A description of responsibilities and procedures for the investment of City funds, lines of authority and reporting requirement will be maintained.

- **Personnel**

Only qualified and assigned personnel will be authorized to approve investment transactions; make and liquidate investments; maintain investment records; and maintain custody of negotiable instruments. Personnel assigned responsibility for the investment of City surplus funds will maintain their professional qualifications by continued education and membership in professional associations.

- **Segregation of functions**

No one having general ledger functions will have responsibility for the investment of City funds.

- **Safekeeping**

All securities are to be held in the name of the City of Lodi. The City will contract with a third party, usually a bank, to provide custodial services and securities safekeeping. Although a cost is involved, the risk of losing physical securities outweighs the fees involved. Preference should be given to custodial services which include reporting services as part of their service, including marking the portfolio to market value, performance evaluation and internal reporting.

## INTERNAL CONTROLS

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- **Reconciliation of records**

Regular and timely reconciliation will be made of detailed securities records with the general ledger control account.

- **Performance evaluation**

Performance statistics will be maintained and reported monthly as provided in the Investment Policies. The indices to be used is the rate of return for the one-year U.S. Treasury Bill and the annual rate of return for the Local Agency Investment Fund (LAIF) managed by the State Treasurer's Office.

## PROCEDURES

### 1. **Assigned Responsibilities**

#### a. City Council responsibilities:

- Adoption of City's investment policies by Resolution
- Review and evaluation of investment performance.

#### b. Deputy City Manager/Treasurer duties and responsibilities:

- Formulating, recommending and implementing the City's investment policies
- Approves all investment transactions prior to execution of any transaction
- Approves broker/dealer arrangements.

#### c. Budget Manager duties and responsibilities:

- Recommends broker/dealer arrangements
- Recommends investments
- Executes investment transactions
- Maintains records of all investment transactions
- Prepares monthly investment report for City Council review
- Prepare fiscal year end investment reports for City's independent audit firm review
- Review's financial condition of the City's depositories (banks) at least annually for compliance with collateralization requirements under government code and financial condition and reports results to City Treasurer.

#### d. Financial Services Manager duties and responsibilities:

- Maintains general ledger control account and duplicate records of investment transactions
- Verifies investment records and reconciles detailed securities records with general ledger control accounts.

#### e. City's independent audit firm.

- Will review the City's investment policies and procedures and make appropriate recommendations and findings as to compliance and steps to be taken to improve internal controls.



**TREASURY FUNCTION RESPONSIBILITIES**

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<b>FUNCTION</b>	<b>RESPONSIBILITIES</b>
<b>1. Recommendations:</b>	
<ul style="list-style-type: none"><li>• Recommends broker/dealer arrangements</li><li>• Recommends investments</li></ul>	Budget Manager Budget Manager
<b>2. Authorization of Investment Transactions</b>	
<ul style="list-style-type: none"><li>• Formal investment policy prepared by</li><li>• Formal investment policy approved by</li><li>• Investment transactions approved by</li><li>• Broker/deal arrangements approved by</li></ul>	Deputy City Manager/Treasurer City Council Deputy City Manager/Treasurer Deputy City Manager/Treasurer
<b>3. Execution of Investment Transactions</b>	Budget Manager
<b>4. Recording of Investment Transactions</b>	
<ul style="list-style-type: none"><li>• Recording of transactions in Treasurer's records</li><li>• Recording of transactions in Accounting records</li></ul>	Budget Manager Financial Services Manager
<b>5. Safeguarding of assets and records</b>	
<ul style="list-style-type: none"><li>• Maintenance of Treasurer's records</li><li>• Reconciliation of Treasurer's records to accounting records</li><li>• Review of (a) financial institution's financial condition, (b) safety, liquidity, and potential yields of investment instruments, and (c) reputation and financial condition of investment brokers</li></ul>	Budget Manager Financial Services Manager Budget Manager
<ul style="list-style-type: none"><li>• Periodic reviews of collateral</li><li>• Review and evaluation of performance</li></ul>	Budget Manager City Council
<b>6. Preparation of reports</b>	Budget Manager
<b>7. Periodic review of investment portfolio for conformance to City's investment policy</b>	City's Audit Firm

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**SAMPLE  
INVESTMENT FORMS**

CITY OF LODI  
INVESTMENT BID SHEET

Date: \_\_\_\_\_

Cycle to:  
Management Analyst \_\_\_\_\_  
Fin Services Manager \_\_\_\_\_

	Transaction #1		Transaction #2		Transaction #3	
	Invest	Withdraw	Invest	Withdraw	Invest	Sell
Recommended Selection						
Primary Dealer						
Quotes						
Firm						
Dealer						
Telephone #						
Security Type						
Price						
Maturity Date						
1st Call Date						
Yield to Maturity						
Purchase Price						
Cusip #						
Principal						
Discount						
Accrued Interest						
Interest Rate						
Interest Period						
Risk Category						
Trade Date						
Settlement Date						
Calculation						
Invstmnt.—Fund #						
Investment Fund #						
Issuer Code						
Cert.Acct. #						
Term of Days						

\*\*\*  
ME (Month end in advance)  
AE (Month end in arrears)  
M (Monthly in advance)  
AM (Monthly in arrears)  
QE (Quarter end)  
S (Semi-annual Actual)  
SC (Semi-Annual Equal)  
MA (Maturity)  
MD (Maturity Discount)  
LAIF BALANCE

Approval:  
Management Analyst: \_\_\_\_\_  
  
Fin Svcs Manager: \_\_\_\_\_  
  
Approval Date: \_\_\_\_\_  
  
Transaction Date: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conf #: \_\_\_\_\_  
\_\_\_\_\_

**BROKER/DEALER QUESTIONNAIRE**

**CITY OF LODI TREASURER'S OFFICE**

P. O. Box 3006  
Lodi, California 95241

1. Name: \_\_\_\_\_
2. Branch Address: \_\_\_\_\_
3. Telephone No: \_\_\_\_\_
4. Primary Account Representative \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone #: \_\_\_\_\_
5. Is your firm a primary dealer in US Government Securities Y/N \_\_\_\_\_
6. Identify the personnel who will be trading with or quoting securities to our agency's employees:  

Name	Title	Telephone #
_____	_____	_____
_____	_____	_____
_____	_____	_____
7. Ntl. Headquarters Address: \_\_\_\_\_  
Corporate Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Compliance Officer (Name, Address, Phone): \_\_\_\_\_
8. What was your firm's total volume in US Government and Agency securities trading last calendar year?

9. Which securities are offered by your firm?

- |   |  |
|---|--|
| <input type="checkbox"/> US Treasury        | <input type="checkbox"/> Negotiable CDs                |
| <input type="checkbox"/> US Treasury Notes  | <input type="checkbox"/> Commercial Paper              |
| <input type="checkbox"/> US Treasury Bonds  | <input type="checkbox"/> BAs Domestic                  |
| <input type="checkbox"/> Agencies (specify) | <input type="checkbox"/> BAs Foreign                   |
|   | <input type="checkbox"/> Repurchase Agreements         |
|   | <input type="checkbox"/> Reverse Repurchase Agreements |

10. List your personnel who have read the City of Lodi Treasurer's Investment Policy

11. Please identify your public-sector clients in our geographical area who are most comparable to our government with which you currently do business.

12. Have any of your clients ever sustained a loss on a securities transaction arising from misunderstanding or misrepresentation of the risk characteristics of the instrument? If so, please explain.

13. Have any of your public-sector clients ever reported to your firm, its officers or employees, orally or in writing, that they sustained a loss exceeding 10% of the original purchase price in a single year on any individual security purchased through your firm? Explain.

14. Has your firm ever been subject to a regulatory or state/federal agency investigation for alleged improper, fraudulent, disreputable or unfair activities related to the sale of securities? Have any of your employees ever been so investigated? Explain.

15. Has a public sector client ever claimed in writing that your firm or members of your firm were responsible for investment losses?

16. Please include samples of research reports that your firm regularly provides to public-sector clients.

17. Please explain your normal delivery process. Who audits these fiduciary systems?
18. Please provide certified financial statements and other indicators regarding your firm's capitalization.
19. Describe the capital line and trading limits that support/limit the office that would conduct business with our government.
20. What training would you provide to our employees and investment officers?
21. Has your firm consistently complied with the Federal Reserve Bank's capital adequacy guidelines? As of this date, does your firm comply with the guidelines? Has your capital position every fallen short? By what factor (1.5x, 2x, etc.) Does your firm presently exceed the capital adequacy guidelines, measure of risk? Include certified documentation of your capital adequacy as measured by the Federal Reserve standards.
22. Do you participate in the Securities Investor Protection Corporation (SIPC) insurance program? If not, why?
23. What portfolio information do you require from your clients?
24. What reports, confirmations and paper trail will we receive?
25. Enclose a complete schedule of fees and charges for various transactions.
26. How many and what percentage of your transactions failed last month? Last year?
27. Describe the precautions taken by your firm to protect the interest of the public when dealing with governmental agencies as investors.
28. Is your firm licensed by the State of California as a broker/dealer? Y/N

**CERTIFICATION ATTACHED**

## CERTIFICATION

I hereby certify that I have personally read the latest adopted resolution of investment policies and objectives of the City of Lodi Treasurer and the California Government Codes pertaining to the investments of the City of Lodi, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted between our firm and the City of Lodi. All sales personnel will be routinely informed of the City of Lodi's investment objectives, horizon, outlook, strategies and risk constraints whenever we are so advised. We pledge to exercise due diligence in informing the City of Lodi of all foreseeable risks associated with financial transactions conducted with our firm. I attest to the accuracy of our responses to your questionnaire.

SIGNED \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

COUNTERSIGNED \_\_\_\_\_ DATE \_\_\_\_\_  
(Person in charge of government securities operations)

NOTE: Completion of Questionnaire is only part of the City of Lodi's Certification process and DOES NOT guarantee that the applicant will be approved to do business with the City of Lodi.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me

the undersigned Notary Public, personally appeared

( ) personally known to me

( ) proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument, and acknowledged that \_\_\_\_\_ executed it.

State of \_\_\_\_\_

County of \_\_\_\_\_

WITNESS my hand and official seal.

Notary's Signature \_\_\_\_\_

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## **GLOSSARY**



**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**AGENT:** an agent is a firm or individual which executes orders for others or acts on behalf of others (the principal). The agent is subject to the control of the principal and does not have title to the principal's property. The agent may charge a fee or commission for this service.

**AGENCIES:** federal agency securities and/or Government-sponsored enterprises.

**AGREEMENT:** an agreement is an arrangement or understanding between individual traders to honor market quotes within predetermined limits on dollar amount and size.

**AMORTIZATION:** straight-line reduction of debt by means of periodic payments sufficient to meet current interest charges and to pay off the debt at maturity.

**ARBITRAGE:** a technique used to take advantage of price differences in separate markets. This is accomplished by purchasing securities, negotiable instruments or currencies in one market for immediate sale in another market at a better price.

**ASKED:** the price at which securities are offered.

**AT THE MARKET:** a trading term for the buying or selling of securities at the current market price rather than at a predetermined price.

**BANKERS ACCEPTANCE (BA):** a bearer time draft for a specified amount payable on a specified date. An individual or business seeking to finance domestic or international trade draws it on a bank. Commodity products collateralize the BA. Sale of goods is usually the source of the borrower's repayment to the bank. The bank finances the borrower's transaction and then often sells the BA on a discount basis to an investor. At maturity, the bank is repaid and the investor holding the BA receives par value from the bank.

**BASIS PRICE:** price expressed in yield-to-maturity or the annual rate of return on the investment.

**BEAR MARKET:** a period of generally pessimistic attitudes and declining market prices. (Compare: Bull market)

**BELOW THE MARKET:** a price below the current market price for a particular security.

**BID AND ASKED OR BID AND OFFER:** the price at which an owner offers to sell (asked or offer) and the price at which a prospective buyer offers to buy (bid). It is often referred to as a quotation or a quote. The difference between the two is called the spread.

**BOND:** an interest-bearing security issued by a corporation, government, governmental agency or other body, which can be executed through a bank or trust company. A bond is a form of debt with an interest rate, maturity, and face value, and is usually secured by specific assets. Most bonds have a maturity of greater than one year, and generally pay interest semiannually.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**BOND ANTICIPATION NOTE (BAN):** short-term notes sold by states and municipalities to obtain interim financing for projects which will eventually be financed by the sale of bonds.

**BOND DISCOUNT:** the difference between a bond's face value and a selling price, when the selling price is lower than the face value.

**BOND RATING:** the classification of a bond's investment quality. (See: Rating).

**BOND RESOLUTION:** a legal order or contract by a governmental unit to authorize a bond issue. A bond resolution carefully details the rights of the bondholders and the obligation of the issuer.

**BOOK VALUE:** the amount at which a security is carried on the books of the holder or issuer. The book value is often the cost, plus or minus amortization, and may differ significantly from the market value.

**BROKER:** a middleman who brings buyers and sellers together and handles their orders, generally charging a commission for this service. In contrast to a principal or a dealer, the broker does not own or take a position in securities.

**BULL MARKET:** a period of generally optimistic attitudes and increasing market prices. (Compare: Bear Market).

**BUYERS MARKET:** a market where supply is greater than demand, giving buyers an advantage in purchase price and terms.

**CALL:** an option to buy a specific asset at a certain price within a particular period.

**CALLABLE:** a feature which states a bond or preferred stock may be redeemed by the issuer prior to maturity under terms designated prior to issuance.

**CALL DATE:** the date on which a bond may be redeemed before maturity at the option of the issuer.

**CALLED BONDS:** bonds redeemed before maturity.

**CALL PREMIUM:** the excess paid for a bond or security over its face value.

**CALL PRICE:** the price paid for a security when it is called. The call price is equal to the face value of the security, plus the call premium.

**CALL PROVISION:** the call provision describes the details by which a bond may be redeemed by the issuer, in whole or in part, prior to maturity. A Security with such a provision will usually have a higher interest rate than comparable, but noncallable securities.

**CAPITAL GAIN OR LOSS:** the amount that is made or lost, depending upon the difference between the sale price and the purchase price of any capital asset or security.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**CAPITAL MARKET:** the market in which buyers and sellers, including institutions, banks, governments, corporations and individuals, trade debt and equity securities.

**CASH SALE:** a transaction calling for the delivery and payment of the securities on the same day that the transaction takes place.

**CERTIFICATE OF DEPOSIT (CD):** debt instrument issued by a bank that usually pays interest. Institutional CD's are issued in denominations of \$100,000 or more. Maturities range from a few weeks to several years. Competitive forces in the marketplace set interest rates.

**COLLATERAL:** securities or other property, which a borrower pledges for the repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COLLATERAL NOTE:** a promissory note, which specifically mentions the collateral, pledged by the borrower for the repayment of an obligation.

**COMMERCIAL PAPER:** short-term obligations with maturities ranging from 2 to 270 days issued by banks, corporations, and other borrowers to investors with temporarily idle cash. Such instruments are unsecured and usually discounted, although some are interest-bearing.

**COMMISSION:** the brokers or agent's fee for purchasing or selling securities for a client.

**COUPON:** the annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

**COVENANT:** a pledge in the bond resolution or indenture of the issuing government to perform in a way that may benefit the bondholders, or to refrain from doing something that might be disadvantageous to them.

**COVER:** the spread between the winning bid (or offer) and the next highest bid (or the next lowest offer). It is useful as a basis for evaluation of the bids.

**COVERAGE RATIO:** the ratio of income available to pay a specific obligation versus the total amount obligated. This is a measure of financial stability.

**CREDIT ANALYSIS:** a critical review and appraisal of the economic and financial condition of a government agency or corporation. The credit analysis evaluates the issuing entity's ability to meet its debt obligations, and the suitability of such obligations for underwriting or investment.

**CURRENT MATURITY:** amount of time left to the maturity of an obligation.

**DEBENTURE:** a bond secured by the general credit of the issuer rather than being backed by a specific lien on property as in mortgage bonds.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**DEBT COVERAGE:** this term is normally used in connection with revenue and corporate bonds. It indicates the margin of safety for payment of debt, reflecting the number of times by which earnings for a certain period of time exceed debt payable during the same period.

**DEBT LIMIT (OR CEILING):** the maximum amount of debt that can legally be acquired under the debt-incurring power of a state or municipality.

**DEBT SERVICE:** interest and principal obligation on an outstanding debt. This is usually for a one-year period.

**DEFAULT:** failure to pay principal or interest promptly when due.

**DELIVERY VERSUS PAYMENT:** securities industry procedure, common with institutional accounts, whereby delivery of securities sold is made to the buying customer's bank in exchange for payment, usually in the form of cash. (Institutions are required by law to require "assets of equal value" in exchange for delivery.) Also called Cash on Delivery.

**DERIVATIVE:** contracts written between a City and a counter party such as a bank, insurance company or brokerage firms. Their value is derived from the value of some underlying assets such as Treasury Bonds or a market index such as LIBOR. Derivatives are used to create financial instruments to meet special market needs. Two contrasting reasons for the use of derivatives are: 1) to limit risk or transfer it to those willing to bear it; and, 2) to speculate about future interest rates and leverage in hope of increasing returns.

**DISCOUNT:** the difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after a sale also is considered to be at a discount.

**DIVERSIFICATION:** dividing investment funds among a variety of securities offering independent returns.

**DUE DILIGENCE:** exercising of due professional care in the performance of duties.

**FACE VALUE:** the principal amount owed on a debt instrument. It is the amount on which interest is computed and represents the amount that the issuer promises to pay at maturity.

**FANNIE MAE:** trade name for the Federal National Mortgage Association.

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** federal agency established in 1933 that guarantees (within limits) funds on deposit in member banks and performs other functions such as making loans to or buying assets from members banks to facilitate mergers or prevent failures.

**FEDERAL FUNDS RATE:** the rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**FEDERAL HOME LOAN BANKS (FHLB):** government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA):** FNMA like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** the central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

**FIDUCIARY:** an individual or group, such as a bank or trust company, which acts for the benefit of another party or to which certain property is given to hold in trust, according the trust agreement.

**FISCAL YEAR:** an accounting or tax period comprising any twelve-month period. The City's fiscal year starts July 1.

**FREDDIE MAC:** trade name for the Federal Home Loan Mortgage Corporation.

**FULL FAITH AND CREDIT:** the unconditional guarantee of the United States government backing a debt for repayment.

**GENERAL OBLIGATION BONDS (GO's):** bonds secured by the pledge of the municipal issuer's full faith and credit, usually including unlimited taxing power.

**GINNIE MAE:** trade name for the Government National Mortgage Association.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FmHA mortgages. The term "pass-through" is often used to describe Ginnie Maes.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**HOLDER:** the person or entity which is in possession of a negotiable instrument.

**INDEBTEDNESS:** the obligation assumed by a borrower, guarantor, endorser, etc. to repay funds which have been or will be paid out on the borrower's behalf.

**INDENTURE:** a written agreement used in connection with a security issue. The document sets the maturity date, interest rate, security and other terms for both the issue holder, issuer and, when appropriate, the trustee.

**INTEREST RATE:** the interest payable each year on borrowed funds expressed as a percentage of the principal.

**INVESTMENT:** use of capital to create more money, either through income-producing vehicles or through more risk-oriented ventures designed to result in capital gains.

**INVESTMENT PORTFOLIO:** a collection of securities held by a bank, individual, institution, or government agency for investment purposes.

**IRREVOCABLE LETTER OF CREDIT:** instrument or document issued by a bank guaranteeing the payment of a customer's drafts up to a stated amount for a specified period. It substitutes the bank's credit for the buyer's and eliminates the seller's risk. This arrangement cannot be changed or terminated by the one who created it without the agreement of the beneficiary.

**ISSUE PRICE:** the price at which a new issue of securities is put on the market.

**ISSUER:** any corporation or governmental unit, which borrows money through the sale of securities.

**JOINT AND SEVERAL OBLIGATION:** a guarantee to the holder in which the liability for a bond or note issue may be enforced against all parties jointly or any one of them individually so that one, several or all may be held responsible for its payment.

**LAIF:** trade name for California State Local Agency Investment Fund.

**LEGAL INVESTMENT:** a list of securities in which certain institutions and fiduciaries may invest as determined by regulatory agencies.

**LEGAL OPINION:** an opinion concerning the legality of a bond issue, usually written by a recognized law firm specializing in the approval of public borrowings.

**LIQUIDITY:** a liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**MARKETABILITY:** the measure of ease with which a security can be sold in the secondary market.

**MARKET ORDER:** an order to buy or sell securities at the prevailing bid or ask price on the market.

**MARKET VALUE:** the price at which a security is trading and could presumably be purchased or sold.

**MARKET VS. QUOTE:** quote designates the current bid and ask on a security, as opposed to the price at which the last security order was sold.

**MASTER REPURCHASE AGREEMENT:** a written contract covering all future transactions between the parties to repurchase—reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** the date that the principal or stated value of debt instrument becomes due and payable. It is also used as the length of time between the issue date and the due date.

**MONEY MARKET** the market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**MORTGAGE BOND:** a bond secured by a mortgage on property. The value of the property used as collateral usually exceeds that of the mortgage bond issued against it.

**NEGOTIABLE:** a term used to designate a security, the title to which is transferable by delivery. Also used to refer to the ability to exchange securities for cash or near-cash instruments.

**NO PAR VALUE:** a security issued with no face or par value.

**NON-NEGOTIABLE:** a security whose title or ownership is not transferable through a simple delivery or endorsement. (See: Negotiable.)

**OBLIGATION:** a responsibility for paying back a debt.

**OFFER:** the price of a security at which a person is willing to sell.

**OFFERING:** placing securities for sale to buyers. The offering usually states the price and terms.

**OPEN MARKET OPERATIONS:** purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**PAR VALUE:** the stated or face value of a security expressed as a specific dollar amount marked on the face of the security; the amount of money due at maturity. Par value should not be confused with market value.

**PAYING AGENT:** the agency, usually a commercial bank, which dispenses the principal and interest payable on a maturing issue.

**PORTFOLIO:** the collection of securities held by an individual or institution.

**PREMIUM:** the amount by which the price paid for a security exceeds the par value. Also, the amount that must be paid over the par value to call an issue before maturity.

**PRIMARY DEALER:** a group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

**PRINCIPAL:** the face or par value of an instrument. It does not include accrued interest.

**PRUDENT INVESTOR RULE:** an investment standard adopted by the State of California in 1995. It states that a trustee shall consider the entire investment portfolio when determining the prudence of an individual investment; diversification is explicitly required within a portfolio; suitability of an investment is a primary determinant; and delegation of investment management is acceptable.

**PRUDENT MAN RULE:** an investment standard established in 1830. It states that a trustee who is investing for another should behave in the same way as a prudent individual of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**QUOTATION (QUOTE):** the highest bid to buy or the lowest offer to sell a security in any market at a particular time.

**RATE OF RETURN:** 1) the yield which attainable on a security based on its purchase price or its current market price. 2) This may be the amortized yield to maturity on a bond the current income returns.

**RATING:** the designation used by investors' services to rate the quality of a security's creditworthiness. Moody's ratings range from the highest Aaa, down through Aa, A, Baa, Ba, B, etc., while Standard and Poor's ratings range from the highest AAA, down through AA, A, BBB, BB, B, etc.

**REFINANCING:** rolling over the principal on securities that have reached maturity or replacing them with the sale of new issues. The object may be to save interest costs or to extend the maturity of the loan.

**REGISTERED BOND:** a bond whose principal and/or interest is payable only to that person or organization which is registered with the issuer. This form is not negotiable and it can be transferred only when endorsed by the registered owner.



## GLOSSARY OF COMMONLY USED FINANCIAL TERMS

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**REPURCHASE AGREEMENT (REPO):** agreement between a seller and a buyer, usually of U.S. Government securities, whereby the seller agrees to repurchase the securities at an agreed upon price and, usually, at a stated time. The attraction of repos is the flexibility of maturities that makes them an ideal place to “park” funds on a very temporary basis. Dealers also arrange *reverse repurchase agreements*, whereby they agree to buy the securities and the investor agrees to repurchase them at a later date.

**REVENUE ANTICIPATION NOTES (RAN):** short-term notes sold in anticipation of receiving future revenues. The notes are to be paid from the proceeds of those revenues.

**REVENUE BOND:** a state or local bond secured by revenues derived from the operations of specific public enterprises, such as utilities. Such bonds are not generally backed by the taxation power of the issuer unless otherwise specified in the bond indenture.

**SAFEKEEPING:** a service banks offer to customers for a fee, where securities are held in the bank’s vaults for protection.

**SECURED DEPOSIT:** bank deposits of state or local government funds which, under the laws of certain jurisdictions, must be secured by the pledge of acceptable securities.

**SECONDARY MARKET:** a market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURED DEPOSIT:** bank deposits of state or local government funds which, under the laws of certain jurisdictions, must be secured by the pledge of acceptable securities.

**SECURITIES:** investment instruments such as bonds, stocks and other instruments of indebtedness or equity.

**SECURITIES & EXCHANGE COMMISSION:** agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SERIAL BOND:** bonds of the same issue, which have different maturities, coming due over a number of years rather than all at once. This allows the issuer to retire the issue in small amounts over a long period of time.

**SETTLEMENT DATE:** date by which an executed order must be settled, either by buyer paying for the securities with cash or by a seller delivering the securities and receiving the proceeds of the sale for them.

**SINKING FUND:** a reserve fund set aside over a period of time for the purpose of liquidating or retiring an obligation, such as a bond issue, at maturity.

**SPECIAL ASSESSMENT BONDS:** bonds that are paid back from taxes on the property that is benefiting from the improvement being financed. The issuing governmental entity agrees to make the assessments and earmark the tax proceeds to repay the debt on these bonds.

**SPREAD:** the difference between two figures or percentages. For example, it may be the difference between the bid and asked prices of a quote, or between the amount paid when bought and the amount received when sold.

**GLOSSARY OF COMMONLY USED FINANCIAL TERMS**

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**TAX ANTICIPATION NOTES (TAN):** short-term notes issued by states or municipalities to finance current operations in anticipation of future tax collections which would be used to repay the debt.

**TAX-EXEMPT BONDS:** interest paid on municipal bonds issued by state and local governments or agencies is usually exempt from federal taxes, and in some cases, the state and/or local taxes. The interest rate paid on these bonds is generally lower than rates on non-exempt securities.

**TERMS:** the conditions of the sale or purchase of a security.

**TREASURY BILL (T-BILL):** a non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**TREASURY BONDS AND NOTES:** obligations of the U. S. government which bear interest. Notes have maturities of one to seven years, while bonds have longer maturities.

**TREASURY BONDS:** long-term coupon bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

**TREASURY NOTES:** medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

**TRUSTEE:** a bank designated as the custodian of funds and the official representative for bondholders.

**UNDERWRITER:** a dealer bank or other financial institution, which arranges for the sale and distribution of a large batch of securities and assumes the responsibility for paying the net purchase price.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one-reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** the annual rate of return on an investment, expressed as a percentage of the investment.

**YIELD CURVE:** graph showing the term structure of interest rates by plotting the yields of all bonds of the same quality with maturities ranging from the shortest to the longest available. The resulting curve shows if short-term interest rates are higher or lower than long-term rates. For the most part, the yield curve is positive (short-term rates are lower), since investors who are willing to tie up their money for a longer period of time usually are compensated for the extra risk they are taking by receiving a higher yield.



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving Purchase of Sign-Making Equipment from Denco Sales Company, of Concord (\$25,208) and Appropriating Funds (\$30,000)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt resolution approving purchase of sign-making equipment from Denco Sales Company, of Concord, in the amount of \$25,208.25, and appropriating funds in the amount of \$30,000.

**BACKGROUND INFORMATION:** The Streets and Drainage Division and the Transit Division have ongoing needs to make new signs and replace old signs for traffic control, bus stops, and other special needs such as Downtown directional signs. The Transit Division has secured Federal Transit Administration grant funds to purchase sign-making equipment and related materials. The grant requires a 20-percent local match that would come from Measure K funds.

The Streets and Drainage Division purchased a plotter/cutter in 2005 which proved to be a highly cost-effective and reliable sign-making facility, however, it has limitations. For example, the plotter and cutters are labor intensive when making multicolor signs. Special-use signs, such as Downtown directional signs, have multiple layers of material and require substantial effort to assemble. The new sign machine will create all signs in a simple one-step process, saving time and money. A typical cost savings, based upon past experience, are the Downtown directional signs that cost \$160 each. The recommended new sign-making equipment will make the same sign for \$71, a savings of more than 40 percent. Labor would be reduced from over an hour to about 10 minutes. The existing sign machine will be retained for making the standard traffic signs. Acquisition of this product will allow the Streets and Drainage Division to have a fully equipped, state-of-the-art sign shop.

The specifications were approved on October 7, 2009, and are on file in the Public Works Department. The City distributed three bid packets and received only one bid, from Denco Sales Company, on November 6, 2009.

The requested appropriation includes funds for the purchase of the sign-making machine and related materials.

**FISCAL IMPACT:** There will be a reduction in cost and labor associated with sign making.

**FUNDING AVAILABLE:** Requested Appropriation: Measure K Maintenance (325) \$6,000 (20%)  
FTA Grant CA-90-Y389 (125080) \$24,000 (80%)

\_\_\_\_\_  
Jordan Ayers  
Deputy City Manager/Internal Services Director

\_\_\_\_\_  
F. Wally Sandelin  
Public Works Director

Prepared by Curtis Juran, Assistant Streets and Drainage Manager  
FWS/CJJ/dg

**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING PURCHASE OF SIGN-MAKING EQUIPMENT  
AND FURTHER APPROPRIATING FUNDS

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WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on November 6, 2009, at 11:00 a.m. for sign-making equipment, described in the specifications therefore approved by the City Council on October 7, 2009; and

WHEREAS, said bids have been checked and tabulated and a report thereof filed with the City Manager as follows:

<b>Bidder</b>	<b>Bid</b>
Denco Sales Company	\$25,524

WHEREAS, staff recommends approving the purchase of the sign-making equipment from the sole bidder, Denco Sales Company, of Concord, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of the sign-making equipment from the sole bidder, Denco Sales Company, of Concord, California, in the amount of \$25,208; and

BE IT FURTHER RESOLVED that funds in the amount of \$30,000 be appropriated from Federal Transit Administration Grant CA-90-Y389 (80%) and Measure K Maintenance (20%) for this purchase.

Dated: November 18, 2009

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I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2009-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

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**AGENDA TITLE:** Adopt a Resolution Awarding the Contract for Hale Park, 209 E. Locust Street and Blakely Park, 1050 S. Stockton Street Playground Surfacing Improvements to Diede Construction, of Woodbridge (\$73,442) and Appropriating Funds (\$88,000)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Interim Parks and Recreation Director

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**RECOMMENDED ACTION:** Adopt a resolution awarding the contract for Hale Park, 209 E. Locust Street and Blakely Park, 1050 S. Stockton Street playground surfacing improvements to Diede Construction, of Woodbridge (\$73,442) and appropriating funds (\$88,000).

**BACKGROUND INFORMATION:** On September 2, 2009, the City Council approved plans and specifications and authorized staff to bid the project. This project was part of the Parks and Recreation Department's 2009/10 Community Development Block Grant request.

The work consists of providing all labor, materials and equipment to repair approximately 3,550 square feet of existing poured-in-place safety playground material at Hale Park. Work also includes cleaning, repair work and an application of new acrylic urethane over the existing poured-in-place surface for the swing area at Blakely Park.

The project was advertised in two local newspapers and nine building exchanges from September 5, 2009 through September 23, 2009. The bid opening took place on October 7, 2009. The bid specifications stipulated that all general contractors interested in bidding this project are required to be in attendance at the mandatory job walk in order to be eligible to bid the project. The mandatory job walk is an opportunity for all contractors to walk through the project with City staff, ask questions regarding the scope of work, and review the existing site conditions. There were 13 general contractor plan holders for this project and two general contractors attended the mandatory job walk.

The City received the following bids for this project:

Bidder	Location	Bid
Engineer's Estimate		\$76,667.75
Diede Construction	Woodbridge	\$73,441.79
Playgrounds Unlimited	Sunnyvale	\$76,813.55

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APPROVED: \_\_\_\_\_  
Blair King, City Manager

**FISCAL IMPACT:** There is no direct impact to the Parks and Recreation Department budget for the playground surfacing improvements at Hale Park or Blakely Park. The Urban County CDBG funds will support Hale Park and 2009/2010 Entitlement CDBG funds will support the improvements at Blakely Park.

**FUNDING:**

Hale Park	
Urban County CDBG Funds:	\$60,000
Blakely Park	
2009/2010 Entitlement CDBG Funds:	\$28,000

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Jordan Ayers,  
Deputy City Manager/ Internal Services Director

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James M. Rodems  
Interim Parks and Recreation Director

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Joseph Wood  
Neighborhood Service Manager

Prepared by Steve Virrey, Project Coordinator

cc: City Attorney  
Joseph Wood, Service Manager  
Wes Fujitani, Sr. Civil Engineer

CITY OF LODI, CALIFORNIA

THIS CONTRACT made by and between the CITY OF LODI, State of California, herein referred to as the "City," and Diede Construction, Inc., herein referred to as the "Contractor."

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

Notice Inviting Bids	The July 1992 Edition,
Information to Bidders	Standard Specifications,
General Provisions	State of California,
Special Provisions	Business and Transportation Agency,
Bid Proposal	Department of Transportation
Contract	
Contract Bonds	
Plans	

All of the above documents, sometimes hereinafter referred to as the "Contract Documents," are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all said documents.

ARTICLE I - That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City and under the condition expressed in the two bonds bearing even date with these presents and hereunto annexed, the Contractor agrees with the City, at Contractor's cost and expense, to do all the work and furnish all the materials except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete in a good workmanlike and substantial manner and to the satisfaction of the City the proposed improvements as shown and described in the Contract Documents which are hereby made a part of the Contract.

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in Section 5.600, "Measurement, Acceptance and Payment," of the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

**ARTICLE III** - The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time, and subsistence pay, apprenticeship or other training programs. The responsibility for compliance with these Labor Code requirements is on the prime contractor.

**ARTICLE IV** - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Contract Documents and the requirements of the Engineer under them, to-wit:

Perform the work of providing all labor, materials, and equipment to repair approximately 3,550 square feet of existing poured-in-place safety playground material at Hale Park. Work also includes cleaning, repair work and an application of new acrylic urethane over the existing poured-in-place surface for the swing area at Blakely Park and other incidental and related work, all as shown on the plans and specifications for the project.

#### **HALE PARK BID ITEMS**

ITEM NO.	DESCRIPTION	UNIT	EST'D QTY	UNIT PRICE	TOTAL PRICE
1.	Furnish, Install Temporary Project Sign with Posts	EA	1	\$951.60	\$951.60
2.	Furnish and Install Temporary Fencing	LF	425	\$3.65	\$1,551.25
3.	Remove and Dispose of Existing Poured-In-Place Playground Material	SF	3,550	\$1.49	\$5,289.50
4.	Remove and Dispose Existing Sub-Grade Material	LS		\$6,319.50	\$6,319.50
5.	Furnish and Install New Compacted Class 2 Aggregate Base Rock	CY	50	\$122.00	\$6,100.00
6.	Remove and Re-Top Damaged EDPM Rubber Areas	SF	100	\$9.76	\$976.00
7.	Furnish and Install New Poured-In-Place Playground Material	SF	3,550	\$12.52	\$44,446.00



ITEM NO.	DESCRIPTION	UNIT	EST'D QTY	UNIT PRICE	TOTAL PRICE
8.	Furnish and Install New Acrylic Urethane Coating Also Include Pressure Washing of Entire Play Area	SF	7,065	\$0.52	\$3,673.80

**HALE PARK**                      **\$69,307.75**  
**TOTAL BID:**

**BLAKELY PARK BID ITEMS**

ITEM NO.	DESCRIPTION	UNIT	EST'D QTY	UNIT PRICE	TOTAL PRICE
1.	Furnish, Install Temporary Project Sign with Posts	EA	1	\$951.60	\$951.60
2.	Furnish and Install Temporary Fencing	LF	180	\$5.06	\$910.80
3.	Remove and Re-Top Damaged EDPM Rubber Areas	SF	100	\$9.76	\$9.76
4.	Furnish and Install New Acrylic Urethane Coating Also Include Pressure Washing of Entire Play Area	SF	2,124	\$0.61	\$1,295.64

**BLAKELY PARK**                      **\$4,134.04**  
**TOTAL BID:**

**HALE PARK &  
BLAKELY PARK  
COMBINED BID  
TOTAL:**                      **\$73,441.69**

**ARTICLE V** - By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

**ARTICLE VI** - It is further expressly agreed by and between the parties hereto that, should there be any conflict between the terms of this instrument and the Bid Proposal of the Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

**ARTICLE VII** - All labor or materials not mentioned specifically as being done by the City will be supplied by the Contractor to accomplish the work as outlined in the specifications.

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the Mayor has executed the contract and to diligently prosecute to completion within 30 WORKING DAYS.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE TIME OF COMPLETION FOR THIS CONTRACT IS REASONABLE AND THE CONTRACTOR AGREES TO PAY THE CITY LIQUIDATED DAMAGES AS SET FORTH IN SECTION 6-04.03 OF THE SPECIAL PROVISIONS. CONTRACTOR AGREES THAT THIS AMOUNT MAY BE DEDUCTED FROM THE AMOUNT DUE THE CONTRACTOR UNDER THE CONTRACT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date written below.

CONTRACTOR:

CITY OF LODI

\_\_\_\_\_

\_\_\_\_\_  
Blair King  
City Manager, City of Lodi

By: \_\_\_\_\_

Attest:

\_\_\_\_\_

Title

\_\_\_\_\_  
Randi Johl  
City Clerk

(CORPORATE SEAL)

Dated: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
AWARDING THE CONTRACT FOR HALE PARK,  
209 EAST LOCUST STREET, AND BLAKELY PARK,  
1050 SOUTH STOCKTON STREET, PLAYGROUND  
SURFACING AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on October 7, 2009, at 11:00 a.m., for the surfacing improvements at Hale Park, 209 E. Locust Street and Blakely Park, 1050 S. Stockton Street, described in the specifications therefore approved by the City Council on September 2, 2009; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

Bidder	Location	Bid
Diede Construction	Woodbridge	\$73,441.79
Playgrounds Unlimited	Sunnyvale	\$76,813.55

WHEREAS, staff recommends award of the contract to Diede Construction, of Woodbridge, California, in the amount of \$73,442.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby awards the contract for the surfacing improvements at Hale Park, 209 E. Locust Street and Blakely Park, 1050 S. Stockton Street, to Diede Construction of Woodbridge, California, in the amount of \$73,441.79; and

BE IT FURTHER RESOLVED, that funds in the amount of \$88,000 be appropriated as follows:

Hale Park:	Urban County CDBG Funds	\$60,000
Blakely Park:	2009/2010 Entitlement CDBG Funds	\$28,000

Dated: November 18, 2009

=====

I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –  
NOES: COUNCIL MEMBERS –  
ABSENT: COUNCIL MEMBERS –  
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Approving Contract Change Order to West Coast Arborist Contract for Tree Trimming Services (\$20,265) and Appropriating Funds (\$22,300)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Public Works Director

---

**RECOMMENDED ACTION:** Adopt a resolution approving a contract change order to the West Coast Arborist contract for tree-trimming services in the amount of \$20,265 and appropriating funds in the amount of \$22,300.

**BACKGROUND INFORMATION:** The storm on October 13, 2009, caused extensive damage to 25 City trees. City crews cleared damaged limbs and debris, but tree trunks and stumps still need to be removed and ground. The current contract with West Coast Arborist, approved by City Council on June 17, 2009, provides for this type of additional work, at a cost of \$265 per hour. The estimate to complete the removal of the damaged trees is \$20,265.

Staff recommends appropriating \$22,300 from the Damage to City Properties account to cover the removal work and any contingencies. This is in addition to \$11,790 for emergency response work provided by West Coast Arborists during and immediately after the storm event and \$36,260 in labor for clean-up subsequent to the storm. Staff is currently working with the Risk Management Division to recoup the cost of the work from the City's insurance pool. Funds received will be used to reimburse the Damage to City Properties account.

**FISCAL IMPACT:** The costs will be reimbursed by our insurance carrier. Citywide, a deductible of no more than \$25,000 will be assessed.

**FUNDING AVAILABLE:** Requested Appropriation: Damage to City Properties (100200): \$22,300

---

Jordan Ayers  
Deputy City Manager/Internal Services Director

---

F. Wally Sandelin  
Public Works Director

FWS/pmf  
Attachment  
cc: Assistant Streets and Drainage Manager

---

**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

**CITY OF LODI  
PUBLIC WORKS DEPARTMENT**

**CONTRACT CHANGE ORDER NO. 1**

Sheet 1 of 1  
Date: November 9, 2009  
Account No. 100200

**PROJECT: Second One-Year Extension of Tree Trimming 2007 Contract**

**CONTRACTOR: West Coast Arborists, Inc., of Stockton**

You are directed to make the following changes or do the following work not included in the Plans and Specifications on this contract.

-----  
Remove the remainder of 25 trees damaged during the October 13, 2009 storm and grind stumps. Locations are on attached list. This work to be done as per contract bid items on estimated hourly rates for **Bid Items 5, Crew Rental** at \$165 per hour and **Bid Items 7, Specialty Equipment**, front end loader and dump truck, both at \$50 per hour.

		PERCENT OF CONTRACT
Original Contract Price	\$40,000	
Total Cost of This Change Order NOT TO EXCEED	\$20,265	51%
Previous Change Orders	\$0	
Total Cost of All Change Orders to Date	\$20,265	51%
Contract Price, Including All Change Orders, Will Be:	\$62,300	

Time of completion will be adjusted as follows: 30 days from Council approval

-----  
Submitted By Curtis Juran Date 11/12/09  
Approval Recommended ef Date \_\_\_\_\_  
Approved, Public Works Director Twedy Sanders Date 11/12/09  
Approved, City Manager (Per Public Works Policies and Procedures, Administration 4.1)  
Date \_\_\_\_\_

The undersigned contractor, having carefully considered the change proposed, agrees, if this proposal is approved, to provide all equipment, furnish all materials, except as otherwise noted above, perform all services necessary for the work above specified, and accept as full payment the prices shown above.

**ACCEPTED:** Date \_\_\_\_\_ Contractor \_\_\_\_\_  
By \_\_\_\_\_ Title \_\_\_\_\_

If the contractor does not sign acceptance of this order, the contractor should refer to Section 4-1.03A of the Standard Specifications regarding filing a written protest within the specified time.

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING CONTRACT CHANGE ORDER TO WEST  
COAST ARBORIST CONTRACT FOR TREE TRIMMING  
SERVICES AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, the storm event of October 13, 2009, caused extensive damage to 25 City trees. City crews cleared damaged limbs and debris, but tree trunks and stumps still need to be removed and ground; and

WHEREAS, the current contract with West Coast Arborist, approved by City Council on June 17, 2009, provides for this type of additional work, at a cost of \$265 per hour. The estimate to complete the removal of the damaged trees is \$20,265; and

WHEREAS, staff recommends appropriating \$22,300 from the Damage to City Properties account to cover the removal work and any contingencies. Staff is currently working with the Risk Management Division to recoup the cost of the work from the City's insurance pool. Funds received will be used to reimburse the Damage to City Properties account.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve a contract change order to the West Coast Arborist contract for tree trimming services in the amount of \$20,265; and

BE IT FURTHER RESOLVED that funds in the amount of \$22,300 be appropriated from the Damage to City Properties account for this work.

Dated: November 18, 2009

=====

I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2009-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Accept Improvements Under Contract for Wastewater Infrastructure Replacement Program (Project No. 4) Project

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Public Works Director

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**RECOMMENDED ACTION:** Accept the improvements under the contract for the Wastewater Infrastructure Replacement Program (Project No. 4) Project.

**BACKGROUND INFORMATION:** The contract for this project was awarded to Pipenology, Inc., of Rocklin, on February 18, 2009, in the amount of \$845,260.

The Wastewater Improvement Program is intended to systematically replace and, where needed, upgrade existing wastewater infrastructure. The older wastewater pipelines are mostly constructed of terra-cotta or concrete pipe. The majority of these pipes are in need of rehabilitation and/or replacement. Project No. 4 is the fourth project scheduled in this program.

Once all phases of the program are completed, the improvements will enhance the level of service associated with the wastewater system by increasing reliability, eliminating pipe joint leaks, and decreasing maintenance costs. As with Project Nos. 1 and 2, which were located in the same general area east of Stockton Street and north of Kettleman Lane, and Project No. 3, which was located in the greater Downtown area, trenchless methods of rehabilitation were used for Project No. 4 to minimize both surface disruption and costs.

This project, similar to Project No. 3, was for wastewater rehabilitation only. Replacement of water lines, upgrading water services, and installing water meters in this area will follow as a separate project. Project No. 4 included in-place (trenchless) rehabilitation of approximately 14,385 linear feet (2.7 miles) of 6-inch diameter wastewater main, the rehabilitation of approximately 58 manholes, and the reconnection of 600 wastewater laterals.

The final contract price was \$974,389. The difference between the contract amount and the final contract price was due to Contract Change Order No. 1 and adjustments to the original contract quantities. Contract Change Order No. 1 added 11 point-repair locations to the contract, added the installation of three 24-inch risers and paid for the removal of 46 protruding laterals.

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to notify vendors and subcontractors that the project is complete and begins their 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

**FISCAL IMPACT:** Completion of this project will reduce future maintenance costs and increase the performance and reliability of the wastewater system. There will be no additional maintenance costs associated with the project.

**FUNDING AVAILABLE:** Wastewater Fund (171679) \$990,000

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F. Wally Sandelin  
Public Works Director

Prepared by Wes Fujitani, Senior Civil Engineer  
FWS/WKF/pmf  
cc: Purchasing Officer  
Water Services Manager

City Attorney

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Accepting Cable Rejuvenation under Contract with Novinium, Inc. for Royal Crest Subdivision (EUD)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Interim Electric Utility Director

---

**RECOMMENDED ACTION:** Adopt a resolution accepting Cable Rejuvenation under contract with Novinium, Inc. for the Royal Crest Subdivision.

**BACKGROUND INFORMATION:** The Cable Rejuvenation Project was awarded to Novinium, Inc. of Kent, WA 98032 on May 18, 2009 in the amount of \$101,972.00. The contract has been completed in substantial conformance with the plans and specifications approved by the City Council.

The project provided rejuvenation of 9700 feet of direct buried underground cables with silicon insulation fluid in the Royal Crest Subdivision. Rejuvenation of direct buried underground cables costs about 30 percent to 40 percent of the replacement cost of underground cables, because it excludes digging, conduit laying, and back-fill. It also minimizes the outage time during the project implementation period.

The final contract price was \$80,228.87. The difference between the contract amount and the final contract price is due to change orders reducing the original contract in the total amount of \$21,743.13, because part of the contracted cables cannot be rejuvenated, and will be replaced in house by Electric Utility Department staff.

Following acceptance by the City Council, a Notice of Completion will be filed with the County Recorder's Office.

**FISCAL IMPACT:** Minimizes frequency of outages and increases reliability of the underground cables in the subdivision, and ultimately the whole system.

**FUNDING AVAILABLE:** Account No. 160651 – System Maintenance - Underground: \$80,228.87

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Jordan Ayers  
Deputy City Manager/Internal Services Director

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Kenneth A. Weisel  
Interim Electric Utility Director

**PREPARED BY:** Demy Bucaneg, Jr., P.E., Assistant Director, Engineering & Operations  
Weldat Haile, P.E., Senior Power Engineer

KAW/DB/WH/lst

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager



RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
ACCEPTING REJUVENATION OF UNDERGROUND  
CABLES UNDER CONTRACT FOR ROYAL CREST  
SUBDIVISION, AND AUTHORIZING THE INTERIM  
ELECTRIC UTILITY DIRECTOR TO FILE A NOTICE OF  
COMPLETION WITH THE COUNTY RECORDER

=====

WHEREAS, the contract for the Cable Rejuvenation of Underground Cables in Royal Crest Subdivision was awarded to Novinium Inc. of Kent, WA 98032 May 18, 2009, in the amount of \$101,972.00; and

WHEREAS, a cost reduction to \$80,228.87 is attributed to change orders that reduced the scope of work in labor and materials by \$21,743.13; and

WHEREAS, the contract has now been completed in substantial conformance with the plans and specifications approved by the City Council and as modified during construction.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby accepts the Cable Rejuvenation improvements under contract with Novinium, Inc. for the Royal Crest Substation; and

BE IT FURTHER RESOLVED that the Interim Electric Utility Director is hereby authorized and directed to file a Notice of Completion with the County Recorder's Office.

Dated: November 18, 2009

=====

I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2009-\_\_\_\_\_



TM

## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Accept Five Machettes of “Celebrate the Harvest” Sculpture by Artist, Rowland Cheney

**MEETING DATE:** November 18, 2009

**PREPARED BY:** James M. Rodems, Community Center Director

---

**RECOMMENDED ACTION:** Accept five machettes of “Celebrate the Harvest” sculpture by artist, Rowland Cheney.

**BACKGROUND INFORMATION:** On May 7, 2008, the City Council adopted Resolution No. 2008-72 approving the purchase of the bronze sculpture, “Celebrate the Harvest.” On page 7 of the City of Lodi’s agreement with Mr. Cheney, it is stated that “In the event any three dimensional reproductions of the Work are made, the ARTIST will provide 5 copies at cost to the City in lieu of any future revenues derived from sales of the three dimensional reproductions.” One machette is available for general City purposes, two have been earmarked for Parks and Recreation, and two for Hutchins Street Square for future fund raising purposes.

**FISCAL IMPACT:** As a component of the artist’s contract the City has paid \$2,120 each for a total of \$10,600. This amount was divided amongst Art in Public Places (2), Parks & Recreation (2), and general purpose (1). The artist estimated retail value of each piece is \$4,240 indicating an opportunity to generate revenue.

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James M. Rodems  
Community Center Director

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APPROVED: \_\_\_\_\_  
Blair King, City Manager



## **CITY OF LODI COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Adopt Resolution Opposing the “New Two-Thirds Vote Requirement for Public Electricity Providers” Initiative (EUD)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Interim Electric Utility Director

---

**RECOMMENDED ACTION:** Adopt a resolution opposing the “New Two-Thirds Vote Requirement for Public Electricity Providers” Initiative.

**BACKGROUND INFORMATION:** On June 1, 2009, California State Ballot Petition 09-0015, the “New Two-Thirds Vote Requirement for Public Electricity Providers” Initiative was filed with the California State Attorney General for the June 2010 statewide ballot. The proposed initiative is being sponsored by Pacific Gas & Electric Company (PG&E) and has the potential to significantly affect the way publicly owned electric utilities do business within California.

The proposed initiative would require a public power provider to obtain a two-thirds voter majority in the existing territory *and* the proposed expanded territory prior to spending funds for expansion or construction of facilities outside current boundaries. In effect, the requirement would prevent elected representatives or a simple majority of citizens from determining whether they want to have public power in any newly annexed areas and impede the City’s ability to provide the full range of services as it builds out pursuant to its General Plan. The initiative, if approved, would significantly limit Lodi’s provision of services in newly annexed areas.

The initiative also contains a number of ambiguities that could affect the utility’s operations within the existing city limits as well. For example, although the initiative states that it exempts expansions within the city’s existing city limits, the exception only applies if the municipal utility is the “sole provider” within those limits. It remains unclear whether PG&E service to 23 grandfathered accounts in Lodi would disqualify the City from this exemption. If it did, the City may be prevented from serving in recently annexed areas (Southwest Gateway, Westside and Reynolds Ranch) and infill areas without the vote.

The initiative would also have a potentially significant impact on efficiency of electric operations. For example, different results in elections of different areas of annexation would lead to discontinuous (checkerboard) service, detracting from operating efficiency.

The estimated cost of a special election in Lodi would be approximately \$67,500 to \$135,000 for each proposed expansion. According to the California Legislative Analyst’s Office (please see attached correspondence dated July 7, 2009 for the complete document), the financial impacts on municipal organizations have yet to be fully determined.

---

**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

Under California statute, the following is a brief description of those actions City staff is both permitted and not permitted to take regarding informing the public about this issue:

- We **can** provide balanced educational materials as they relate to the initiative. These materials must not promote a specific position on the issue and cannot be biased in one way or another. Any materials must be distributed through our regular communication channels;
- We **can** ask our local governing boards to adopt a resolution that officially supports or opposes the ballot initiative during an open meeting;
- We **cannot** discuss or engage in campaign activities during compensated work hours;
- We **cannot** use work computers, e-mail addresses, or phones, including cell phones paid for by the City, for campaign communication activities; and,
- We **cannot** use City or Utility resources (including office equipment, staff time, vehicles or public funds) to engage in advocacy-related activities regarding the ballot initiative.

Based upon the research conducted on this ballot initiative, the EUD respectfully requests that the City Council take an oppose position on this initiative.

**FISCAL IMPACT:** If the initiative were to pass, the impact on the Electric Utility could be significant.

---

Kenneth A. Weisel  
Interim Electric Utility Director

**PREPARED BY:** Rob Lechner, Manager, Customer Service and Programs

KAW/RL/lst

Attachment: California Legislative Analyst – letter dated July 7, 2009

July 7, 2009

Hon. Edmund G. Brown Jr.  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Krystal Paris  
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed a proposed constitutional amendment initiative relating to voting requirements for expanding or establishing publicly owned electricity providers (A.G. File No. 09-0015).

## BACKGROUND

### Provision of Electricity Service in California

**California Electricity Providers.** Californians generally receive their electricity service from one of three types of providers: investor-owned utilities (IOUs), local publicly owned electric utilities, and electric service providers (ESPs). These providers provide 68 percent, 24 percent, and 8 percent, respectively, of retail electricity service in the state.

**Investor-Owned Utilities.** The IOUs are owned by private investors and provide electricity service for profit. The three largest electricity IOUs in the state are Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric. Each IOU has a unique, defined geographic service area and is required by law to serve customers in that area. The California Public Utilities Commission (CPUC) regulates the rates charged by IOUs and how they provide electricity service to their customers.

**Publicly Owned Utilities.** Publicly owned electric utilities are public entities that provide electricity service to residents and businesses in their local area. Not regulated by CPUC, publicly owned electric utilities set their own terms of service, including the rates charged to their customers. Electricity service is currently provided by local governments through several different governmental structures authorized under state law, including:

- Utility departments of cities, such as the Los Angeles Department of Water and Power.
- Municipal utility districts, such as the Sacramento Municipal Utility District.

- Public utility districts, such as the Truckee Donner Public Utility District.
- Irrigation districts, such as the Imperial Irrigation District.

***Electric Service Providers.*** The ESPs provide electricity service to customers who have chosen not to receive service from the IOU or publicly owned utility that would otherwise serve their geographic area. Under this approach, an electricity customer enters into what is termed a “direct access” contract with an ESP that delivers electricity to the customer through the local utility’s transmission and distribution system. Electric service provider rates are not regulated by CPUC. There are currently eighteen registered ESPs, mainly serving large industrial and commercial customers. Individual electricity consumers are currently barred from entering into ESP contracts, although state law will again permit this to occur several years from now.

### **Community Choice Aggregation**

In addition to the ESP arrangements discussed above, state law allows a city or a county, or a combination of the two, to arrange to provide electrical service within their jurisdiction through a contract with an electricity provider other than the IOU that would otherwise serve that local area. This version of direct access is referred to as “community choice aggregation.” Although no community choice aggregator (CCA) currently exists to provide electricity service in California, several communities are exploring this option.

Under this approach, electricity would be purchased by the CCA from an ESP instead of the local IOU. However, the transmission and distribution system of the IOU serving that local area would continue to be used to deliver the electricity to the customers. Electricity customers within that jurisdiction would automatically get their electricity from the CCA unless they elected to continue to receive service from the IOU serving their local area.

### **Voter Approval Requirements for Publicly Owned Electricity Providers**

As noted above, publicly owned utilities can be organized under several different types of government structures, such as municipal utility districts. Each type of local government entity that is authorized to provide electricity service, and that is considering either the start-up of electricity service or the expansion of existing service beyond its current service area, is subject to certain state requirements. Various statutes specify whether voter approval is required for the *start-up* of electricity service by authorized local government entities. Under state law, if a local government intends to *expand* its electricity service into a new territory, that new area must be annexed and a majority of the voters in the area proposed for annexation must approve the expansion. However, no vote of the public is generally required in such cases within the existing service territory of the local governmental entity that is proposing the expansion. (In some cases, a local commission requires such a vote as a condition of approving the annexation.) Lo-

cal agency action to *create a CCA*, in contrast, may be undertaken upon a vote of the local agency governing board and does not require local voter approval.

## PROPOSAL

The measure places new voter approval requirements on local governments before they can use “public funds”—defined broadly in the measure to include tax revenues, various forms of debt, and ratepayer funds—to start up electricity service, expand electricity service into a new territory, or to create a CCA. First, if an authorized local government entity seeks to start up electricity service, it must receive approval by two-thirds of the voters in the area proposed to be served. Second, if an existing publicly owned utility seeks to expand its electric delivery service into a new territory, it must receive an approval by two-thirds of the voters in both the area currently served by the utility and the new area proposed to be served. Third, the measure requires two-thirds voter approval for a local government to create a CCA.

The measure provides three exemptions to local governments from these voter approval requirements:

- If the use of public funds has been previously approved by the voters both within the existing jurisdiction of the local government and the territory proposed for expansion.
- If the public funds would be used solely to purchase, provide, or supply specified types of renewable electricity, such as wind or solar power.
- If the public funds would be used only to provide electric delivery service for the local government’s own use.

## FISCAL EFFECTS

***Local Administrative Costs for Elections.*** Because this measure requires voter approval for specified local government actions, it would result in additional costs to local governments each time a proposal requiring voter approval was placed on the ballot. These costs would primarily be related to preparing and mailing election-related materials. In most cases, the balloting could be consolidated with already scheduled elections. The increased election-related costs due to this measure would probably be minor.

***Potential Impact on State and Local Government Costs and Revenues.*** This measure could affect local government costs and revenues due to its potential effects on the operation of publicly owned utilities and CCAs. It could also affect the finances of state and local government agencies in California because of its potential impact on electricity rates. These effects would largely depend upon future actions of voters and local governments. We discuss these potential effects in more detail below.

First, the new public voter approval requirements for the start-up or expansion of publicly owned utilities or the formation of CCAs could, in some cases, result in public disapproval of such changes. Also, the existence of these new voter approval requirements could deter some local government agencies from proceeding with such plans. To the extent that this occurred, local government agencies could collect lower revenues from electricity customers, and incur lower costs for the operation and coordination of electricity services, than would otherwise be the case.

Second, the enactment of this measure could also affect the finances of state and local government agencies in California due to its potential impact on electricity rates. As noted above, some local government agencies might not start up or expand a publicly owned utility into a new territory or create a CCA as a result of the measure's new voter approval requirements. In this event, the rates paid by electricity customers in that and neighboring jurisdictions could be higher or lower than would otherwise have been the case. This could affect state and local government costs, since many public agencies are themselves large consumers of electricity. To the extent that changes in electricity rates affect business profits, sales, and taxable income, these factors could affect state and local tax revenues.

The net fiscal effect of all of these factors on the finances of state and local government agencies is unknown.

## SUMMARY

In summary, the initiative would have the following major fiscal effect:

- Unknown net impact on state and local government costs and revenues, depending on future voter decisions, due to the measure's potential effects on electricity rates and publicly owned utility operations.

Sincerely,

---

Mac Taylor  
Legislative Analyst

---

Michael C. Genest  
Director of Finance



RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL TO  
OPPOSE THE "NEW TWO-THIRDS VOTE REQUIREMENT  
FOR PUBLIC ELECTRICITY PROVIDERS" INITIATIVE

=====

WHEREAS, the California Attorney General has approved the "New Two-Thirds Vote Requirement for Public Electricity Providers" Initiative for signature-gathering for the June 2010 ballot; and

WHEREAS, the Initiative would require a public power provider to obtain a 2/3 voter majority in both existing territory and proposed territory expansions prior to spending funds for the utility system expansion; and

WHEREAS, the proposed Initiative would limit the City of Lodi's ability to expand its electric service territory pursuant to its General Plan, while adding significant taxpayer-funded costs for special elections.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby opposes the "New Two-Thirds Vote Requirement for Public Electricity Providers" Initiative;  
And

BE IT FURTHER RESOLVED that the City Council directs the Electric Utility Department to appropriately and proactively inform the citizens of Lodi, California regarding the ballot petition in accordance with California Fair Political Practices Commission regulations.

Dated: November 18, 2009

=====

I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following Vote:

AYES: COUNCIL MEMBERS -

NOES: COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

RANDI JOHL  
City Clerk



## **CITY OF LODI COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Adopt a Resolution in Support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Clerk

---

**RECOMMENDED ACTION:** Adopt a resolution in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

**BACKGROUND INFORMATION:** On October 20, 2009, the "Californians to Protect Local Taxpayers and Vital Services" Coalition filed a ballot measure initiative titled "The Local Taxpayer, Public Safety and Transportation Protection Act" with the California Attorney General's Office. The Coalition is made up of leaders from the League of California Cities, local government, transportation and public safety.

If passed, the measure is designed to close loopholes and prevent the State from borrowing, taking or redirecting funds including local taxes, property taxes, redevelopment funds, transportation (i.e., Highway User Tax and Proposition 42) and public transit funds.

It is anticipated that a ballot title and summary will be received in late November or early December at which time the Coalition will proceed with collecting approximately one million signatures to qualify for the November 2010 ballot. The full text of the proposed measure is attached.

On November 9, 2009, the City of Lodi, along with other cities, received a request from the League of California Cities to adopt a formal resolution supporting the Local Taxpayer, Public Safety and Transportation Protection Act of 2010. While elected officials are encouraged to participate in campaigns on their own time utilizing their personal resources, a legislative body may adopt a resolution supporting or opposing a measure at a public meeting. If the Council so desires, the attached resolution supporting the Local Taxpayer, Public Safety and Transportation Protection Act of 2010 may be adopted.

**FISCAL IMPACT:** There is no fiscal impact associated with the adoption of the resolution. If the measure qualifies, there will be a fiscal impact associated with a State-wide general municipal election. If passed, the initiative would provide greater stability for local government revenue sources.

---

Blair King  
City Manager

BK/rj  
Attachment

---

APPROVED: \_\_\_\_\_  
Blair King, City Manager

09 - 0063

Amdt. #1NS

**Section One. Title.**

This act shall be known and may be cited as the "Local Taxpayer, Public Safety, and Transportation Protection Act of 2010."

**Section Two. Findings and Declarations.**

The people of the State of California find and declare that:

(a) In order to maintain local control over local taxpayer funds and protect vital services like local fire protection and 9-1-1 emergency response, law enforcement, emergency room care, public transit, and transportation improvements, California voters have repeatedly and overwhelmingly voted to restrict state politicians in Sacramento from taking revenues dedicated to funding local government services and dedicated to funding transportation improvement projects and services.

(b) By taking these actions, voters have acknowledged the critical importance of preventing State raids of revenues dedicated to funding vital local government services and transportation improvement projects and services.

(c) Despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects and services, state politicians in Sacramento have seized and borrowed billions of dollars in local government and transportation funds.

(d) In recent years, state politicians in Sacramento have specifically:

(1) Borrowed billions of dollars in local property tax revenues that would otherwise be used to fund local police, fire and paramedic response and other vital local services;

(2) Sought to take and borrow billions of dollars in gas tax revenues that voters have dedicated to on-going transportation projects and tried to use them for non-transportation purposes;

(3) Taken local community redevelopment funds on numerous occasions and used them for unrelated purposes;

(4) Taken billions of dollars from local public transit like bus, shuttle, light-rail and regional commuter rail, and used these funds for unrelated state purposes.

(e) The continued raiding and borrowing of revenues dedicated to funding local government services and dedicated to funding transportation improvement projects can cause

severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services.

(f) State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these dedicated funds.

(g) It is hereby resolved, that with approval of this ballot initiative, state politicians in Sacramento shall be prohibited from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services or dedicated to transportation improvement projects and services.

**Section Two and One-Half. Statement of Purpose.**

The purpose of this measure is to conclusively and completely prohibit state politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with revenues that are dedicated to funding services provided by local government or funds dedicated to transportation improvement projects and services.

**Section Three. Section 24 of Article XIII of the California Constitution is hereby amended to read as follows:**

(a) The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

(b) The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes.

(c) Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

(d) Money subvented to a local government under Section 25 may be used for state or local purposes.

**Section Four. Section 25.5 of Article XIII of the California Constitution is hereby amended to read as follows:**

**SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:**

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, "percentage" does not include any property tax revenues referenced in paragraph (2).

(B) ~~Beginning with the 2008-09~~ In the 2009-10 fiscal year only, and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a that fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

~~(C)(i) Subparagraph (A) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year for which subparagraph (A) is suspended.~~

~~(ii) Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.~~

~~(iii) Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).~~

~~(iv)~~ (C) A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2)(A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.

(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring. The Legislature shall not change the pro rata shares of ad valorem property tax pursuant to this paragraph, nor change the allocation of the revenues described in Section 15 of Article XI, to reimburse a local government when the Legislature or any state agency mandates a new program or higher level of service on that local government.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

(7) Require a community redevelopment agency (A) to pay, remit, loan or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (i) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008; or (ii) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

(b) For purposes of this section, the following definitions apply:

(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

(3) "Jurisdiction" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

**Section Five. Article XIX of the California Constitution is hereby amended to read as follows:**

**SECTION 1.** The Legislature shall not borrow revenue from the Highway Users Tax Account, or its successor, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

**SEC. 2.** Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be deposited into the Highway Users Tax Account (Section 2100 of the Streets and Highways Code) or its successor, which is hereby declared to be a trust

fund, and shall be allocated monthly in accordance with Section 4, and shall used solely for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

~~SEC. 2.~~ SEC. 3. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section ~~1~~ 2 of this article.

~~SEC. 3.~~ SEC. 4. ~~(a) Except as provided in subdivision (b), The Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas in effect on June 30, 2009 which allocate the revenues described in Section 2 to for cities, counties, and areas of the State shall remain in effect.~~

(b) The Legislature shall not modify the statutory allocations in effect on June 30, 2009 unless and until both of the following have occurred:

(1) ~~¶~~ The Legislature determines in accordance with this subdivision that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall (A) provide for the allocation of these revenues, together with other



similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population; and (B) be consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan;

(2) The process described in subdivision (c) has been completed.

(c) The Legislature shall not modify the statutory allocation pursuant to subdivision (b) until all of the following have occurred:

(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the local and regional goals for ground transportation in that part of the State;

(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is consistent with the orderly achievement of local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan; and

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(d) A statute enacted by the Legislature modifying the statutory allocations must be by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision.

(e) The revenues allocated by statute to cities, counties, and areas of the State pursuant to this article may be used solely by the entity to which they are allocated, and solely for the purposes described in Sections 2, 5, or 6 of this article.

(f) The Legislature may not take any action which permanently or temporarily does any of the following: (1) changes the status of the Highway Users Tax Account as a trust fund; (2) borrows, diverts, or appropriates these revenues for purposes other than those described in subdivision (e); or (3) delays, defers, suspends, or otherwise interrupts the payment, allocation, distribution, disbursement, or transfer of revenues from taxes described in Section 2 to cities, counties, and areas of the State pursuant to the procedures in effect on June 30, 2009.

~~SEC. 4.~~ SEC. 5. Revenues allocated pursuant to Section ~~3~~ 4 may not be expended for the purposes specified in subdivision (b) of Section ~~1~~ 2, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of

such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section ~~1~~ 2.

~~SEC. 5. SEC. 6. (a) The Legislature may authorize~~ Up to 25 percent of the revenues available for expenditure by any city or county, or by the State, allocated to the State pursuant to Section 4 for the purposes specified in subdivision (a) of Section ~~1~~ 2 of this article may be pledged or used by the State, upon approval by the voters and appropriation by the Legislature, for the payment of principal and interest on voter-approved bonds for such purposes issued by the State on and after November 2, 2010 for such purposes.

(b) Up to 25 percent of the revenues allocated to any city or county pursuant to Section 4 for the purposes specified in subdivision (a) of Section 2 of this article may be pledged or used only by any city or county for the payment of principal and interest on voter-approved bonds issued by that city or county for such purposes.

~~SEC. 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~(c) Nothing in this section prohibits the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as~~

~~described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.~~

SEC. 7. If the Legislature reduces or repeals the taxes described in Section 2 and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Highway Users Tax Account, dedicated to the purposes listed in Section 2, and allocated to cities, counties, and areas of the State pursuant to Section 4. All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in Section 2.

~~SEC. 7.~~ SEC. 8. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

~~SEC. 8.~~ SEC. 9. Notwithstanding Sections ~~1 and 2 and 3~~ of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes.

~~SEC. 9.~~ SEC. 10. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections ~~1 and 2 and 3~~ and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the ~~s~~State to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, "coastal zone" means "coastal zone" as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977.

Section Six. Article XIX A of the California Constitution is hereby amended to read as follows:

SECTION 1. (a) The Legislature shall not borrow revenues from the Public Transportation Account, or any successor account, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

(b) The funds in the Public Transportation Account in the State Transportation Fund, or any successor account, is a trust fund. The Legislature may not change the status of the Public Transportation Account as a trust fund. Funds in the Public Transportation Account may

not be loaned or otherwise transferred to the General Fund or any other fund or account in the State Treasury. may be loaned to the General Fund only if one of the following conditions is imposed:

(c) All revenues specified in paragraphs (1) through (3), inclusive, of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as that section read on June 1, 2001, shall be deposited no less than quarterly into the Public Transportation Account (Section 99310 of the Public Utilities Code), or its successor. The Legislature may not take any action which temporarily or permanently diverts or appropriates these revenues for purposes other than those described in subdivision (d), or delays, defers, suspends, or otherwise interrupts the quarterly deposit of these funds into the Public Transportation Account.

(d) Funds in the Public Transportation Account may only be used for transportation planning and mass transportation purposes. The revenues described in subdivision (c) are hereby continuously appropriated to the Controller without regard to fiscal years for allocation as follows:

(1) Fifty percent pursuant to subdivisions (a) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(2) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

~~(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

(e) For purposes of paragraph (1) of subdivision (d), "transportation planning" means only the purposes described in subdivisions (c) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(f) For purposes of this article, "mass transportation," "public transit," and "mass transit" have the same meaning as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

SEC. 2. (a) As used in this section, a "local transportation fund" is a fund created under Section 29530 of the Government Code, or any successor to that statute.

(b) All local transportation funds are hereby designated trust funds. The Legislature may not change the status of local transportation funds as trust funds.

(c) A local transportation fund that has been created pursuant to law may not be abolished.

(d) Money in a local transportation fund shall be allocated only by the local government that created the fund, and only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature

may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision.

(e) This section constitutes the sole method of allocating, distributing, and using the revenues in a local transportation fund. The purposes described in subdivision (d) are the sole purposes for which the revenues in a local transportation fund may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues in a local transportation fund for any other purpose than those described in subdivision (d);

(2) Authorizes the expenditures of the revenue in a local transportation fund for any other purpose than those described in subdivision (d);

(3) Borrows or loans the revenues in a local transportation fund, regardless of whether these revenues remain in the Retail Sales Tax Fund in the State Treasury or are transferred to another fund or account.

(f) The percentage of the tax imposed pursuant to section 7202 of the Revenue and Taxation Code allocated to local transportation funds shall not be reduced below the percentage that was transmitted to such funds during the 2008 calendar year. Revenues allocated to local transportation funds shall be transmitted in accordance with Section 7204 of the Revenue and Taxation Code and deposited into local transportation funds in accordance with Section 29530 of the Government Code, as those sections read on June 30, 2009.

**Section Seven. Article XIX B of the California Constitution is hereby amended to read as follows:**

**SECTION 1. The Legislature shall not borrow revenues from the Transportation Investment Fund, or its successor, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.**

**SEC. 2. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all ~~moneys~~ revenues that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), ~~and that are deposited in the General Fund of the State pursuant to that law,~~ shall be transferred to deposited into the Transportation Investment Fund or its successor, which is hereby created in**



the State Treasury and which is hereby declared to be a trust fund. The Legislature may not change the status of the Transportation Investment Fund as a trust fund.

(b)(1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation. Moneys appropriated for public transit and mass transportation shall be allocated as follows: (i) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; (ii) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; and (iii) Fifty percent for the purposes of subdivisions (a) and (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund are hereby continuously appropriated to the Controller without regard to fiscal years, which shall be allocated, ~~upon appropriation by the Legislature,~~ as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

~~(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:~~

~~(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.~~

~~(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.~~

~~(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.~~

~~(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.~~

~~(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.~~

~~(e) (d) The Legislature may not enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b) until all of the following have occurred:~~

~~(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the need for public transit, mass transportation, transportation capital improvement projects, and street and highway maintenance;~~

~~(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is~~



consistent with the orderly achievement of local, regional and statewide goals for public transit, mass transportation, transportation capital improvements, and street and highway maintenance in a manner that is consistent with local general plans, regional transportation plans, and the California Transportation Plan;

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(4) The statute enacted by the Legislature pursuant to this subdivision must be by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the revenues described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

~~(f)~~ (e)(1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

(f) This section constitutes the sole method of allocating, distributing, and using the revenues described in subdivision (a). The purposes described in paragraph (2) of subdivision (b) are the sole purposes for which the revenues described in subdivision (a) may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b);

(2) Authorizes the expenditures of the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b) or;

(3) Borrows or loans the revenues described in subdivision (a), regardless of whether these revenues remain in the Transportation Investment Fund or are transferred to another fund or account such as the Public Transportation Account, a trust fund in the State Transportation Fund.

(g) For purposes of this article, "mass transportation," "public transit" and "mass transit" have the same meanings as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(h) If the Legislature reduces or repeals the taxes described in subdivision (a) and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Transportation Investment Fund, dedicated to the purposes listed in paragraph (2) of subdivision (b), and allocated pursuant to subdivision (c). All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in subdivision (a).

**Section Eight. Article XIX C is hereby added to the Constitution to read as follows:**

**SECTION 1.** If any challenge to invalidate an action that violates Articles XIX, XIX A, or XIX B of the California Constitution is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the Controller, without regard to fiscal years, that amount of revenue necessary to restore the fund or account from which the revenues were unlawfully taken or diverted to its financial status had the unlawful action not been taken.

**SEC. 2.** If any challenge to invalidate an action that violates Section 24 or Section 25.5 of Article XIII of this Constitution is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the local government an amount of revenue equal to the amount of revenue unlawfully taken or diverted.

**SEC. 3.** Interest calculated at the Pooled Money Investment Fund rate from the date or dates the revenues were unlawfully taken or diverted shall accrue to the amounts required to be restored pursuant to this section. Within thirty days from the date a challenge is successful, the Controller shall make the transfer required by the continuous appropriation and issue a notice to the parties that the transfer has been completed.

**SEC. 4.** If in any challenge brought pursuant to this section a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

#### **Section Nine.**

Section 16 of Article XVI of the Constitution requires that a specified portion of the taxes levied upon the taxable property in a redevelopment project each year be allocated to the redevelopment agency to repay indebtedness incurred for the purpose of eliminating blight within the redevelopment project area. Section 16 of Article XVI prohibits the Legislature from reallocating some or that entire specified portion of the taxes to the State, an agency of the State, or any other taxing jurisdiction, instead of to the redevelopment agency. The Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring redevelopment agencies to transfer a portion of those taxes for purposes other than the financing of redevelopment projects. A purpose of the amendments made by this measure is to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, that the redevelopment agency transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction; or use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction.

#### **Section Ten. Continuous Appropriations.**

The provisions of Sections 6, 7, and 8 of this Act that require a continuous appropriation to the Controller without regard to fiscal year are intended to be "appropriations made by law" within the meaning of Section 7 of Article XVI of the California Constitution.

**Section Eleven. Liberal Construction.**

The provisions of this Act shall be liberally construed in order to effectuate its purposes.

**Section Twelve. Conflicting Statutes.**

Any statute passed by the Legislature between October 21, 2009 and the effective date of this measure, that would have been prohibited if this measure were in effect on the date it was enacted, is hereby repealed.

**Section Thirteen. Conflicting Ballot Measures.**

In the event that this measure and another measure or measures relating to the direction or redirection of revenues dedicated to funding services provided by local governments and/or transportation projects or services appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

**Section Fourteen. Severability.**

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC  
SAFETY AND TRANSPORTATION PROTECTION  
ACT OF 2010

=====

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds, and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response, parks, libraries, and other vital local services that residents rely upon every day, and gas tax funds are vital to maintain and improve local streets and roads, to make road safety improvements, relieve traffic congestion, and provide mass transit; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects, the State Legislature has seized and borrowed billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, this year's borrowing and raids of local government, redevelopment and transit funds, as well as previous, ongoing raids of local government and transportation funds have lead to severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and

WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government, transportation and transit advocates recently filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, for potential placement on California's November 2010 statewide ballot; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to further prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment, or dedicated to transportation improvement projects and mass transit.

NOW THEREFORE, BE IT RESOLVED that the City of Lodi formally endorses the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the listing of the City of Lodi in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010 and instructs staff to fax a copy of this resolution to campaign offices at (916) 442-3510.

Date: November 18, 2009

=====

I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2009-\_\_\_\_\_

## Comments by the public on non-agenda items

**THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.**

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items





## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Public Hearing to Consider Unmet Transit Needs in Lodi

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Conduct a public hearing to consider unmet transit needs in Lodi.

**BACKGROUND INFORMATION:** These public hearings are an annual requirement of the Transportation Development Act regulations. The San Joaquin Regional Transit District will be sponsoring several hearings to discuss unmet transit needs in San Joaquin County, including Lodi. Throughout the year, many comments and service requests are given directly to San Joaquin Council of Governments (SJCOG) staff and discussed at the regular SJCOG Interagency Transit Committee.

Unmet Transit Needs are defined as transportation services, that can be reasonably met, not currently provided to those residents who use or would use public transportation regularly, if available, to meet their life expectations. At the conclusion of the comment period, SJCOG's Social Services Technical Advisory Committee (SSTAC) will review all comments received in the County and make a recommendation to the SJCOG Board if there are unmet needs and, if so, if they are reasonable to meet. SSTAC will evaluate the comments received based on a reasonableness test of six criteria. The criteria include community acceptance, equity, potential ridership, cost effectiveness, operational feasibility and funding. The funding criterion requires the imposed service does not cause the public agency to incur expenses in excess of the maximum allocation of TDA funds. Completion of the Draft Unmet Transit Needs study is scheduled for February 2010 with adoption of the Final Unmet Transit Needs study in April 2010.

**FISCAL IMPACT:** This hearing is required in accordance with the Transportation Development Act funds the transit system utilizes for operations and capital. If there are service changes or expansions that result from the hearing, the fiscal impact would be determined at that time.

**FUNDING AVAILABLE:** None required.

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F. Wally Sandelin  
Public Works Director

Prepared by Paula J. Fernandez, Transportation Manager/Senior Traffic Engineer  
FWS/PJF/pmf

cc: Tanisha Taylor, San Joaquin Council of Governments  
Aaron Hoyt, San Joaquin Council of Governments

**APPROVED:** 

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Blair King, City Manager



***Please immediately confirm receipt  
of this fax by calling 333-6702***

CITY OF LODI  
P. O. BOX 3006  
LODI, CALIFORNIA 95241-1910

**ADVERTISING INSTRUCTIONS**

**SUBJECT: PUBLIC HEARING TO CONSIDER UNMET TRANSIT NEEDS IN  
LODI**

**PUBLISH DATE: SATURDAY, OCTOBER 24, 2009**

**LEGAL AD**

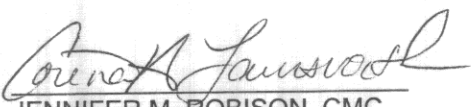
**TEAR SHEETS WANTED: One (1) please**

**SEND AFFIDAVIT AND BILL TO:**

RANDI JOHL, CITY CLERK  
City of Lodi  
P.O. Box 3006  
Lodi, CA 95241-1910

**DATED: THURSDAY, OCTOBER 22, 2009**

**ORDERED BY: RANDI JOHL  
CITY CLERK**

*for*   
JENNIFER M. ROBISON, CMC  
ASSISTANT CITY CLERK

MARIA BECERRA  
ADMINISTRATIVE CLERK

**Verify Appearance of this Legal in the Newspaper – Copy to File**

LNS Faxed to the Sentinel at 369-1084 at 10:27am (time) on 10/22/09 (date) 2 (pages)  
Phoned to confirm receipt of all pages at \_\_\_\_\_ (time) \_\_\_\_\_ CF \_\_\_\_\_ MB \_\_\_\_\_ JMR (initials)



## **DECLARATION OF POSTING**

### **PUBLIC HEARING TO CONSIDER UNMET TRANSIT NEEDS IN LODI**

On Friday, October 23, 2009, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider unmet transit needs in Lodi (attached and marked as Exhibit A) was posted at the following locations:

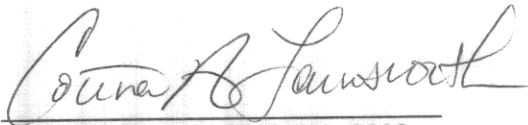
Lodi Public Library  
Lodi City Clerk's Office  
Lodi City Hall Lobby  
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 23, 2009, at Lodi, California.

ORDERED BY:

**RANDI JOHL  
CITY CLERK**

*for*   
\_\_\_\_\_  
JENNIFER M. ROBISON, CMC  
ASSISTANT CITY CLERK

\_\_\_\_\_  
MARIA BECERRA  
ADMINISTRATIVE CLERK



## **CITY OF LODI**

**Carnegie Forum**  
305 West Pine Street, Lodi

## **NOTICE OF PUBLIC HEARING**

**Date: November 18, 2009**

**Time: 7:00 p.m.**

For information regarding this notice please contact:

**Randi Johl,**

**City Clerk**

**Telephone: (209) 333-6702**

### **NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that on **Wednesday, November 18, 2009**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

**a) Unmet transit needs in Lodi.**

Information regarding this item may be obtained in the Public Works Department, 221 West Pine Street, Lodi, (209) 333-6706. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2<sup>nd</sup> Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

A handwritten signature in black ink, appearing to be "Randi Johl", written over a horizontal line.

Randi Johl  
City Clerk

**Dated: October 21, 2009**

Approved as to form:

A handwritten signature in black ink, appearing to be "D. Stephen Schwabauer", written over a horizontal line.

D. Stephen Schwabauer  
City Attorney



## **CITY OF LODI COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Receive Preliminary Report and Open and Continue Public Hearing to Introduce Ordinance Amending Chapter 13.20 "Electrical Service" Sections 225 and 227 Titled Schedule NEM-Net Energy Metering and Schedule CEM-Co-Energy Metering Rider (EUD)

**MEETING DATE:** November 18, 2009

**PREPARED BY:** Interim Electric Utility Director

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**RECOMMENDED ACTION:** Receive preliminary report and open and continue public hearing to introduce ordinance amending Chapter 13.20 "Electrical Service" Sections 225 and 227 titled Schedule NEM-Net Energy Metering and Schedule CEM-Co-Energy Metering Rider.

**BACKGROUND INFORMATION:** State of California Assembly Bill 58 (AB 58) requires electric utilities to offer attractive terms for residential and small commercial customers who install solar or wind powered generation up to 1MW on their property. Staff will provide a preliminary report introducing the subject matter of a proposed ordinance amending Lodi Municipal Code Chapter 13.20, Sections 225 and 227, pertaining to "Electrical Service." After receiving the preliminary report, staff recommends the opening and continuing of the public hearing to a date uncertain. This will provide staff an opportunity to obtain additional information pertaining to the Net-Energy and Co-Energy Metering topic, address any questions that may arise during the introduction of the ordinance, and bring the matter back to Council in the near future.

**FISCAL IMPACT:** The only fiscal impact associated with receiving a preliminary report and opening and continuing the public hearing is the nominal cost to advertise the continued public hearing.

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Blair King  
City Manager

BK/rj  
Attachment

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APPROVED: \_\_\_\_\_  
Blair King, City Manager



# CITY OF LODI

## ELECTRIC UTILITY DEPARTMENT

### SCHEDULE NEM

### NET ENERGY METERING RIDER

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#### **PURPOSE:**

The purpose of this rider is to establish rates, terms and conditions for providing net metering services to customers generating electricity using solar and wind facilities of 10kW or less in size. This rider complies with California State legislation requiring every electric utility in the state, including municipally owned utilities, to develop a standard contract or tariff providing for net energy metering, as defined below.

#### **APPLICABILITY:**

This schedule is applicable to service for customers where a part or all of the electrical requirements of the customer can be supplied from a solar or wind power production source owned and operated by the customer (customer-generated). Customer-generators must currently be served under Lodi's residential or small commercial (G1 and G2) rate schedules. Availability of this schedule to eligible customer-generators will be on a first-come, first-served basis and will be available until such time as the total rated generating capacity used by eligible customer-generators equals two and one-half percent (2.5%) of the City of Lodi aggregate customer annual peak demand.

The solar or wind generation source must: 1.) have a capacity of 10kW or less, 2.) be located on the customer-generator's premises, 3.) be connected for parallel operation with Lodi's distribution facilities, and 4.) be intended for the sole purpose of offsetting a part or all of the customer-generator's own electrical requirements. In no case shall the power or energy generated by the customer-owned solar or wind source be available for resale, except as specified under this rider.

Additional terms and conditions for service, including terms of interconnection and parallel operation, are specified in a customer-specific Electrical Interconnection and Net Energy Metering Payment Agreement.

#### **RATES:**

Charges for electricity supplied by the City will be based on metered usage in accordance with Special Conditions (3) and (5) below. Rates charged under this schedule will be in accordance with the eligible customer-generator's otherwise applicable rate schedule. Public Benefit charges and monthly customer charges shall not be by-passable.

# CITY OF LODI

## ELECTRIC UTILITY DEPARTMENT

### SCHEDULE NEM

#### NET ENERGY METERING RIDER

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#### **SPECIAL CONDITIONS:**

- (1) **Other Agreements:** A signed Electrical Interconnection and Net Metering Payment Agreement between the customer-generator and the City is required for service under this schedule.
- (2) **Metering Equipment:** Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. If customer's existing electrical meter is not capable of measuring the flow of electricity in two directions, the customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is capable of measuring electricity in both directions.
- (3) **Net Energy Metering and Billing:** Net Energy is defined as measuring the difference between the electricity supplied by the City through the electric grid to the eligible customer-generator and electricity generated by an eligible customer-generator and fed back into the electric grid over a 12-month period.

In the event that the electricity supplied by the City during the 12-month period exceeds the electricity generated by the eligible customer-generator during the same period, the eligible customer is a net electricity consumer and the City shall bill the customer for the net consumption during the 12-month period based on the retail price per kilowatt-hour for eligible customer-generator's rate class over the same period.

The City shall provide the customer-generator with net electricity consumption information on each regular bill. That information shall include the current amount owed to the City for the net electricity consumed. Customer-generator may exercise the option to pay monthly for the net energy consumed, but in any event shall be responsible for any payments due at the end of each 12-month period.

- (4) **Attributes:** Any Capacity Attributes or Environmental Attributes associated with the renewable energy produced by the customer-generator at sites subject to this schedule shall belong to the City. Capacity Attributes include, but are not limited to, System Resource Adequacy Capacity and Local Resource Adequacy Capacity, if any. Environmental Attributes include, but are not limited to, Renewable Portfolio Standard recognition, Renewable Energy Credits, Greenhouse Gas Credits, and Energy Reduction Credits, if any.

# CITY OF LODI

## ELECTRIC UTILITY DEPARTMENT

### SCHEDULE NEM

#### NET ENERGY METERING RIDER

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- (5) **Excess Energy:** Net energy metering will be administered on an annualized basis, beginning with the month of interconnection of the customer's generating system with the City's electrical system. Electric generation production may result in a dollar credit carrying forward to the next billing period. If a credit accumulation results in a net customer-owned generation credit at the end of the annualized year, unused dollar credits will be set to zero and not be carried into the new annualized year.
- (6) **Rules and Regulations:** Other conditions are specified in the City of Lodi Electric Utility Department's Rules, Regulations and Engineering Standards shall apply to this electric rate schedule.



# CITY OF LODI

## ELECTRIC UTILITY DEPARTMENT

### SCHEDULE CEM

#### CO-ENERGY METERING RIDER

##### **PURPOSE:**

The purpose of this rider is to establish rates, terms and conditions for providing co-energy metering service to customers generating electricity using solar and wind facilities greater than 10 kW and not more than 1 MW in size. This rider complies with California State legislation allowing municipally owned utilities to develop a standard contract or tariff providing for co-energy metering, as defined below.

##### **APPLICABILITY:**

This schedule is applicable to service for customers where a part or all of the electrical requirements of the customer can be supplied from a solar or wind power production source owned and operated by the customer (customer-generator). Availability of this schedule to eligible customer-generators will be on a first-come, first-served basis and will be available until such time as the total rated generating capacity used by eligible customer-generators equals two and one-half percent (2.5%) of the City of Lodi aggregate customer annual peak demand.

The solar or wind generation source must: 1) be rated not more than 1 MW and not be eligible for Schedule NEM – Net Energy Metering Rider, 2) be located on the customer-generator's premises, 3) be connected for parallel operation with Lodi's distribution facilities, and 4) be intended for the sole purpose of offsetting a part or all of the customer-generator's own electrical requirements. In no case shall the power or energy generated by the customer-owned solar or wind source be available for resale, except as specified under this rider.

Additional terms and conditions for service, including terms of interconnection and parallel operation, are specified in a customer-specific Electrical Interconnection and Co-Energy Metering Payment Agreement.

##### **RATES:**

Charges for electricity supplied by the City will be based on the co-metered usage in accordance with Special Conditions (3), (4) and (6) below. Rates charged under this schedule will be in accordance with the eligible customer-generator's otherwise applicable rate schedule.

# CITY OF LODI

## ELECTRIC UTILITY DEPARTMENT

### SCHEDULE CEM

#### CO-ENERGY METERING RIDER

**Energy Supplied Charges:** The metered electricity supplied by the City to the customer-generator over the applicable billing period will be billed at the applicable service rate in effect when the service was rendered. All conditions, charges, adjustments and taxes under the applicable rate schedule shall be in effect. None of the charges of the applicable rate schedule shall be by-passable.

**Energy Transmitted Credit:** The metered electricity generated by the customer-generator and supplied to the City over the applicable billing period will be credited at the Baseline Energy Cost rate specified in Schedule ECA plus the Energy Cost Adjustment rate for the applicable billing period.

#### **SPECIAL CONDITIONS:**

- (1) **Other Agreements:** A signed Electrical Interconnection and Co-Energy Metering Payment Agreement between the customer-generator and the City is required for service under this schedule.
- (2) **Metering Equipment:** Co-Energy metering shall be accomplished using two meters – the customer revenue meter of record and a separate generation meter. The customer-generator shall be responsible for all expenses involved in purchasing and installing required meters.
- (3) **Co-Energy Metering:** Co-Energy metering is defined as the dual measurement of (i) the electricity supplied by the City through the electric grid to the eligible customer-generator and (ii) the electricity generated by an eligible customer-generator from the customer-owned solar or wind source.
- (4) **Co-Energy Billing:** The customer-generator shall receive a “net bill” from the City for each billing period. The co-energy metering net billing calculation shall be composed of the Energy Supplied Charges less the Energy Transmitted Credit.

All net charges are due at the time of billing. Electric generation production may result in a dollar credit carrying forward to the next billing period, subject to Special Condition (e) below.

- (5) **Attributes:** Any Capacity Attributes or Environmental Attributes associated with the renewable energy produced by the customer-generator at sites subject to this schedule shall belong to the City. Capacity Attributes include, but are not limited

# CITY OF LODI

## ELECTRIC UTILITY DEPARTMENT

### SCHEDULE CEM

#### CO-ENERGY METERING RIDER

to, System Resource Adequacy Capacity and Local Resource Adequacy Capacity, if any. Environmental Attributes include, but are not limited to, Renewable Portfolio Standard recognition, Renewable Energy Credits, Greenhouse Gas Credits, and Energy Reduction Credits, if any.

- (6) **Excess Energy:** Co-Energy metering will be administered on an annualized basis, beginning with the month of interconnection of the customer's generating system with the City's electrical system. Electric generation production may result in a dollar credit carrying forward to the next billing period. If a credit accumulation results in a net customer-owned generation credit at the end of the annualized year, unused dollar credits will be set to zero and not be carried into the new annualized year.
- (7) **Rules and Regulations:** Other conditions as specified in the City of Lodi Electric Utility Department's Rules, Regulations and Engineering Standards shall apply to this electric rate schedule.

ORDINANCE NO.

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING  
CHAPTER 13.20, "ELECTRICAL SERVICE," BY  
REPEALING AND REENACTING SECTION 13.20.225,  
SCHEDULE NEM – NET ENERGY METERING RIDER, AND  
SECTION 13.20.227, SCHEDULE CEM – CO-ENERGY  
METERING RIDER

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 13.20.225 Schedule NEM – Net Energy Metering Rider is hereby repealed and reenacted to read as follows:

A. **PURPOSE:** The purpose of this rider is to establish rates, terms and conditions for providing net metering services to customers generating electricity using solar and wind facilities of 10kW or less in size. This rider complies with California State legislation requiring every electric utility in the state, including municipally owned utilities, to develop a standard contract or tariff providing for net energy metering, as defined below.

B. **APPLICABILITY:** This schedule is applicable to service for customers where a part or all of the electrical requirements of the customer can be supplied from a solar or wind power production source owned and operated by the customer (customer-generated). Customer-generators must currently be served under Lodi's residential and small commercial (G1 and G2) rate schedules. Availability of this schedule to eligible customer-generators will be on a first-come, first-served basis and will be available until such time the total rated generating capacity used by eligible customer-generators equals two and one-half percent (2.5%) of the City of Lodi aggregate customer annual peak demand.

The solar or wind generation source must: 1.) have a capacity of 10kW or less, 2.) be located on the customer-generator's premises, 3.) be connected for parallel operation with Lodi's distribution facilities, and 4.) be intended for the sole purpose of offsetting a part or all of the customer-generator's own electrical requirements. In no case shall the power or energy generated by the customer-owned solar or wind source be available for resale, except as specified under this rider.

Additional terms and conditions for service, including terms of interconnection and parallel operation, are specified in a customer-specific Electrical Interconnection and Net Energy Metering Payment Agreement.

C. **RATES:** Charges for electricity supplied by the City will be based on metered usage in accordance with Special Conditions (3) and (5) below. Rates charged under this schedule will be in accordance with the eligible customer-generator's otherwise applicable rate schedule. Public Benefit charges and monthly customer charges shall not be by-passable.

D. SPECIAL CONDITIONS:

1. Other Agreements: A signed Electrical Interconnection and Net Metering Payment Agreement between the customer-generator and the City is required for service under this schedule.
2. Metering Equipment: Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. If customer's existing electrical meter is not capable of measuring the flow of electricity in two directions, the customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is capable of measuring electricity in both directions.
3. Net Energy Metering and Billing: Net Energy is defined as measuring the difference between the electricity supplied by the City through the electric grid to the eligible customer-generator and electricity generated by an eligible customer-generator and fed back into the electric grid over a 12-month period.

In the event that the electricity supplied by the City during the 12-month period exceeds the electricity generated by the eligible customer-generator during the same period, the eligible customer is a net electricity consumer and the City shall bill the customer for the net consumption during the 12-month period based on the retail price per kilowatt-hour for eligible customer-generator's rate class over the same period.

The City shall provide the customer-generator with net electricity consumption information on each regular bill. That information shall include the current amount owed to the City for the net electricity consumed. Customer-generator may exercise the option to pay monthly for the net energy consumed, but in any event shall be responsible for any payments due at the end of each 12-month period.

4. Attributes: Any Capacity Attributes or Environmental Attributes associated with the renewable energy produced by the customer-generator at sites subject to this schedule shall belong to the City. Capacity Attributes include, but are not limited to, System Resource Adequacy Capacity and Local Resource Adequacy Capacity, if any. Environmental Attributes include, but are not limited to, Renewable Portfolio Standard recognition, Renewable Energy Credits, Greenhouse Gas Credits, and Energy Reduction Credits, if any.
5. Excess Energy: Net energy metering will be administered on an annualized basis, beginning with the month of interconnection of the customer's generating system with the City's electrical system. Electric generation production may result in a dollar credit carrying forward to the next billing period. If a credit accumulation results in a

net customer-owned generation credit at the end of the annualized year, unused dollar credits will be set to zero and not be carried into the new annualized year.

- 6, Rules and Regulations: Other conditions are specified in the City of Lodi Electric Utility Department's Rules, Regulations and Engineering Standards shall apply to this electric rate schedule.

SECTION 2. Lodi Municipal Code Section 13.20.227 Schedule CEM – Co-Energy Metering Rider is hereby repealed and reenacted to read as follows:

- A. **PURPOSE:** The purpose of this rider is to establish rates, terms and conditions for providing co-energy metering service to customers generating electricity using solar and wind facilities greater than 10 kW and not more than 1 MW in size. This rider complies with California State legislation allowing municipally owned utilities to develop a standard contract or tariff providing for co-energy metering, as defined below.

- B. **APPLICABILITY:**

This schedule is applicable to service for customers where a part or all of the electrical requirements of the customer can be supplied from a solar or wind power production source owned and operated by the customer (customer-generator). Availability of this schedule to eligible customer-generators will be on a first-come, first-served basis and will be available until such time the total rated generating capacity used by eligible customer-generators equals two and one-half percent (2.5%) of the City of Lodi aggregate customer annual peak demand.

The solar or wind generation source must: 1) be rated not more than 1 MW and not be eligible for Schedule NEM – Net Energy Metering Rider, 2) be located on the customer-generator's premises, 3) be connected for parallel operation with Lodi's distribution facilities, and 4) be intended for the sole purpose of offsetting a part or all of the customer-generator's own electrical requirements. In no case shall the power or energy generated by the customer-owned solar or wind source be available for resale, except as specified under this rider.

Additional terms and conditions for service, including terms of interconnection and parallel operation, are specified in a customer-specific Electrical Interconnection and Co-Energy Metering Payment Agreement.

- C. **RATES:** Charges for electricity supplied by the City will be based on the co-metered usage in accordance with Special Conditions (3), (4), and (6) below. Rates charged under this schedule will be in accordance with the eligible customer-generator's otherwise applicable rate schedule.

1. Energy Supplied Charges: The metered electricity supplied by the City to the customer-generator over the applicable billing period will be billed at the applicable service rate in effect when the service was rendered. All conditions, charges, adjustments and taxes under the applicable rate schedule shall be in effect. None of the charges of the applicable rate schedule shall be by-passable.
2. Energy Transmitted Credit: The metered electricity generated by the customer-generator and supplied to the City over the applicable billing period will be credited at the Baseline Energy Cost rate specified in Schedule ECA plus the Energy Cost Adjustment rate for the applicable billing period..

D. SPECIAL CONDITIONS:

1. Other Agreements: A signed Electrical Interconnection and Co-Energy Metering Payment Agreement between the customer-generator and the City is required for service under this schedule.
2. Metering Equipment: Co-Energy metering shall be accomplished using two meters – the customer revenue meter of record and a separate generation meter. The customer-generator shall be responsible for all expenses involved in purchasing and installing required meters.
3. Co-Energy Metering: Co-Energy metering is defined as the dual measurement of (i) the electricity supplied by the City through the electric grid to the eligible customer-generator and (ii) the electricity generated by an eligible customer-generator from the customer-owned solar or wind source.
4. Co-Energy Billing: The customer-generator shall receive a “net bill” from the City for each billing period. The co-energy metering net billing calculation shall be composed of the Energy Supplied Charges less the Energy Transmitted Credit.

All net charges are due at the time of billing. Electric generation production may result in a dollar credit carrying forward to the next billing period, subject to Special Condition (e) below.

5. Attributes: Any Capacity Attributes or Environmental Attributes associated with the renewable energy produced by the customer-generator at sites subject to this schedule shall belong to the City. Capacity Attributes include, but are not limited to, System Resource Adequacy Capacity and Local Resource Adequacy Capacity, if any. Environmental Attributes include, but are not limited to, Renewable Portfolio Standard recognition, Renewable Energy Credits, Greenhouse Gas Credits, and Energy Reduction Credits, if any.
6. Excess Energy: Co-Energy metering will be administered on an annualized basis, beginning with the month of interconnection of the customer's generating system with the City's electrical system. Electric generation

production may result in a dollar credit carrying forward to the next billing period. If a credit accumulation results in a net customer-owned generation credit at the end of the annualized year, unused dollar credits will be set to zero and not be carried into the new annualized year.

7. Rules and Regulations: Other conditions as specified in the City of Lodi Electric Utility Department's Rules, Regulations and Engineering Standards shall apply to this electric rate schedule.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

SECTION 7. The amended Schedules referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after February 1, 2010, or the first date allowable under State law.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
LARRY D. HANSEN  
MAYOR

ATTEST:

RANDI JOHL  
City Clerk



State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held November 18, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL  
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER  
City Attorney



***Please immediately confirm receipt  
of this fax by calling 333-6702***

CITY OF LODI  
P. O. BOX 3006  
LODI, CALIFORNIA 95241-1910

**ADVERTISING INSTRUCTIONS**

**SUBJECT:** PUBLIC HEARING TO CONSIDER INTRODUCTION OF ORDINANCE  
AMENDING CHAPTER 13.20, "ELECTRICAL SERVICE," SECTION 225  
AND 227 TITLED, "SCHEDULE NEM - NET ENERGY METERING" AND  
"SCHEDULE CEM - CO-ENERGY METERING RIDER"

**PUBLISH DATE:** SATURDAY, OCTOBER 24, 2009

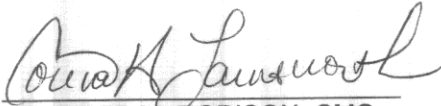
**LEGAL AD**

**TEAR SHEETS WANTED:** One (1) please

**SEND AFFIDAVIT AND BILL TO:** RANDI JOHL, CITY CLERK  
City of Lodi  
P.O. Box 3006  
Lodi, CA 95241-1910

**DATED:** THURSDAY, OCTOBER 22, 2009

**ORDERED BY:** RANDI JOHL  
CITY CLERK

*for*   
JENNIFER M. ROBISON, CMC  
ASSISTANT CITY CLERK

MARIA BECERRA  
ADMINISTRATIVE CLERK

**Verify Appearance of this Legal in the Newspaper - Copy to File**

LNS Faxed to the Sentinel at 369-1084 at 10:23am (time) on 10/22/09 (date) 2 (pages)  
Phoned to confirm receipt of all pages at \_\_\_\_\_ (time) \_\_\_\_\_ JMP MB CF (initials)



## **DECLARATION OF POSTING**

**PUBLIC HEARING TO CONSIDER INTRODUCTION OF ORDINANCE  
AMENDING CHAPTER 13.20, "ELECTRICAL SERVICE," SECTION 225 AND 227  
TITLED, "SCHEDULE NEM – NET ENERGY METERING" AND "SCHEDULE CEM –  
CO-ENERGY METERING RIDER"**

On Friday, October 23, 2009, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider introduction of ordinance amending Chapter 13.20, "Electrical Service," Section 225 and 227 titled, "Schedule NEM – Net Energy Metering" and "Schedule CEM – Co-Energy Metering Rider" (attached and marked as Exhibit A) was posted at the following locations:

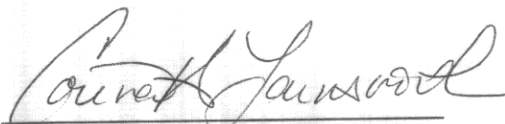
Lodi Public Library  
Lodi City Clerk's Office  
Lodi City Hall Lobby  
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 23, 2009, at Lodi, California.

ORDERED BY:

**RANDI JOHL  
CITY CLERK**

*for*   
JENNIFER M. ROBISON, CMC  
ASSISTANT CITY CLERK

\_\_\_\_\_  
MARIA BECERRA  
ADMINISTRATIVE CLERK



## CITY OF LODI

Carnegie Forum  
305 West Pine Street, Lodi

## NOTICE OF PUBLIC HEARING

Date: November 18, 2009

Time: 7:00 p.m.

For information regarding this notice please contact:

**Randi Johl**

**City Clerk**

**Telephone: (209) 333-6702**

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that on **Wednesday, November 18, 2009**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) Introduce ordinance amending Chapter 13.20, "Electrical Service," Section 225 and 227 titled, "Schedule NEM – Net Energy Metering" and "Schedule CEM – Co-Energy Metering Rider"

Information regarding this item may be obtained in the Electric Utility Department, 1331 South Ham Lane, Lodi, (209) 333-6762. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2<sup>nd</sup> Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

A handwritten signature in black ink, appearing to be "Randi Johl", written over a horizontal line.

Randi Johl  
City Clerk

**Dated:** October 21, 2009

Approved as to form:

A handwritten signature in black ink, appearing to be "D. Stephen Schwabauer", written over a horizontal line.

D. Stephen Schwabauer  
City Attorney



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA ITEM I-02a**

**AGENDA TITLE:** Appointment to the Lodi Budget/Finance Committee

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Concur with the Mayor's recommended appointment to the Lodi Budget/Finance Committee.

**BACKGROUND INFORMATION:** On three occasions, the City Council directed the City Clerk to post for one vacancy on the Lodi Budget/Finance Committee, which was to remain open until filled. The Mayor has reviewed the one application received and is recommending that the City Council concur with the following appointment.

**Lodi Budget/Finance Committee**

Bud Mullanix Term to expire June 30, 2013

NOTE: One applicant (one new application);  
posting ordered 4/15/09, 6/17/09, & 8/19/09;  
application deadline – open until filled

Government Code Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. The City Council is requested to direct the City Clerk to make the necessary postings.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** None required.

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Randi Johl  
City Clerk

RJ/JMR

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APPROVED: \_\_\_\_\_  
Blair King, City Manager



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Introduce Ordinance Amending Lodi Municipal Code Title 9 – Public Peace, Morals and Welfare – by Repealing and Reenacting Chapter 9.18 “Vending on Streets, Sidewalks and Private Property” in its Entirety.

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Attorney

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**RECOMMENDED ACTION:** Introduce Ordinance Amending Lodi Municipal Code Title 9 – Public Peace, Morals and Welfare – by Repealing and Reenacting Chapter 9.18 “Vending on Streets, Sidewalks and Private Property” in its Entirety.

**BACKGROUND INFORMATION:** Council requested an opportunity to consider an ordinance capping the number of mobile food vendors that actually prepare food within the unit at its meeting on October 7, 2009 based on concerns that the units were rapidly approaching the number of lots available for their use under the ordinance. The attached proposed ordinance implements the caps at 22 Mobile Food Production Units and three Seafood/Produce Trucks. The ordinance does not propose caps for push carts or hot dog stands because no push carts and only one hot dog cart are currently licensed. The permits would be transferable in the event the truck is sold. The ordinance also makes several non-substantive changes to reflect Code Enforcement’s move to the Police Department.

Staff contacted David LeBeouf, counsel for the affected business owners who indicated he would not be available on November 18<sup>th</sup>. Mr. LeBeouf requests that Council delay action on this item until he can attend; however he expressed that he does not oppose the concept of transferable permit caps. Staff and Mr. LeBeouf are scheduled to meet next week to consider any changes he might propose and if any are made they will be presented in redline on a blue sheet at the meeting of the Council.

**FISCAL IMPACT:** Not applicable.

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Stephen Schwabauer  
Lodi City Attorney

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

ORDINANCE NO. \_\_\_\_\_

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE TITLE 9 – PUBLIC PEACE, MORALS, AND WELFARE BY REPEALING AND REENACTING CHAPTER 9.18, "VENDING ON STREETS, SIDEWALKS, AND PRIVATE PROPERTY" IN ITS ENTIRETY

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code (LMC) Title 9 – Public Peace, Morals, and Welfare – Chapter 9.18, "Vending on Streets and Sidewalks," is hereby repealed and reenacted in its entirety to read as follows:

Chapter 9.18 VENDING ON STREETS, SIDEWALKS, AND PRIVATE PROPERTY

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9.18.010 Declaration of Purpose

The City Council expressly finds that the vending of produce and prepared or prepackaged foods, goods, wares, and/or services on public streets, sidewalks, or alleys and on private property pose unsafe conditions and special dangers to the public health, safety, and welfare of the residents of the City of Lodi. It is the purpose and intent of the City Council, in enacting this Chapter, to provide those persons who engage in those types of vending operations with clear and concise regulations to prevent safety, traffic, and health hazards, as well as to preserve the peace, safety, and welfare of the community.

9.18.020 Definitions

- A. "Business Owner" shall mean any person, firm, or corporation, which owns or controls any interest in any business engaged in vending as defined in Subsection J hereof.
- B. "Commissary" shall mean a food establishment in which food, containers, equipment, or supplies are stored or handled for use in Motorized Food Wagons or Conveyance.
- C. "Conveyance," as used in this Chapter, means any vehicle (except Motorized Food Wagons, as defined below), trailer, cart, wagon, or stand, with or without wheels, which may be moved from one place to another under its own power or by other means.
- D. "Linear Frontage" is the method used to determine distances as used in this Chapter.
- E. "Mobile Food Vendor" shall mean any person as defined in this Chapter, who owns, controls, manages, and/or leases a Motorized Food Wagon, Conveyance or Produce/Seafood Truck; and/or contracts with a person(s)

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to drive, operate, prepare foods, and/or vend from a Motorized Food Wagon, Conveyance or Produce/Seafood Truck.

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F. "Motorized Food Wagon" shall mean any vehicle as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, pre-packaged, or unprepared, unpackaged food or foodstuffs of any kind on any public street, alley, highway, or private street, alley, or property within the City of Lodi, including a Produce/Seafood Truck (as defined below) and a Motorized Food Production Unit (as defined below). For the purposes of this Chapter, a Motorized Food Wagon shall also include any trailer or wagon pulled by a vehicle.

G. "Motorized Food Preparation Unit" means any vehicle or trailer and vehicle combination as defined in Section 670 of the California Vehicle Code which is equipped to 1) prepare and sell or 2) cook and sell food products.

H. "Persons" shall mean any person, firm, partnership, association, or corporation, and includes, but is not limited to, owners, operators, drivers, lessors, and lessees of Motorized Food Wagons and Conveyances.

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I. "Produce/Seafood Truck" means any vehicle as defined by Section 670 of the California Vehicle Code which sells raw produce or seafood

J. "Vend" or "Vending" shall mean the sale of any goods, wares, merchandise, prepared, pre-packaged, or unprepared, unpackaged food or foodstuffs of any kind from private or public property.

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1. Vending from a Motorized Food Wagon generally has the following characteristics:

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a. Food is ordered and served from a take-out counter that is integral to the Motorized Food Wagon and there is typically a space for customer queuing;

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b. Food is paid for prior to consumption;

c. Food and beverages are served in disposable wrappers, plates, or containers; and

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d. Food and beverages are prepared and sold for off-site consumption.

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2. Vending from a Conveyance generally has the following characteristics:

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a. Food is paid for prior to consumption;



- b. Food and beverages are served in disposable wrappers, plates, or containers; and
- c. Food and beverages are prepared and sold for off-site consumption.
3. Vending from a Produce/Seafood Truck generally has the following characteristics:
- a. Food is paid for prior to consumption; and
- b. Food is sold for off-site consumption and/or preparation.
- K. "Vendor"/"Operator" shall mean any person who sells and makes immediate delivery, or offers for sale and immediate delivery, any goods, wares, or merchandise, or drives, operates, vends, and/or prepares food on or from a Motorized Food Wagon or Conveyance.

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#### 9.18.030 Regulation of Sales

It shall be unlawful for any person to Vend, or attempt to engage in Vending or operate any vehicle or conduct any business for the purpose of Vending from any vehicle, Motorized Food Wagon or Conveyance parked, stopped, or standing upon any public street, alley, highway, or property, or private street, alley, or property within the City of Lodi except in accordance with all applicable provisions of this Code.

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#### 9.18.040 Permit to Operate

A person desiring to engage in a vending operation, as defined by this Chapter, shall submit a written application for a Permit to Operate to the City Manager or designee in a form acceptable to and with all supporting information required by the City of Lodi. Such application shall be accompanied by a non-refundable, non-transferable application fee in an amount as may be established from time to time by Resolution of the City Council. Any such permit shall be required to be renewed annually and a separate non-refundable, non-transferable application fee shall be paid annually for such renewal application. Vendors must have the permit in their possession when vending. There must be at least one Vendor with a valid permit present whenever Vending is taking place.

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- A. A Vendor must obtain a background check in accordance with the requirements of Section 9.16.030 of this Code.
- B. Every Vendor shall obtain a City of Lodi Business Tax Certification.
- C. As part of the Permit to Operate application, the Vendor or Business \_\_\_\_\_ Owner shall provide the following:

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1. Proof of current vehicle registration and a copy of an applicable vehicle insurance policy for any vehicles used in the vending activity.

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2. Four photographs (showing different exterior views) of each Motorized Food Wagon or Conveyance.

3. A copy of a current San Joaquin County Environmental Health permit for any Motorized Food Wagon.

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4. A copy of the Vendor or Business Owner's current Business Tax Certification and applicable Board of Equalization Seller's Permit.

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5. Vendor or Business Owner must show proof of payment to a Commissary for the prior twelve (12) months for all cases involving the reissuance of a Permit; and proof of current payment for new Vendors.

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6. If the Vendor is operating on private property, the Business Owner shall provide the following:

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a. an affidavit in a form approved by the City from the property owner (if other than self) permitting the Vendor to locate on the site;

b. a Site Plan, drawn to scale and with dimensions, indicating the location of all existing buildings, structures, driveways, parking spaces, traffic controls, and improvements, and the location or areas where the proposed Vending activity, structures, and improvements related to the Vending activity will be located upon the site; and

c. an affidavit from the business or location providing the required restroom facilities for food service workers, stating the hours that those facilities are being made available to the Mobile Food Vendor.

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D. The following may constitute grounds for denial of an Application for a Permit to Operate:

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1. The Vending operation or activity as proposed by the applicant does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety, and health regulations under State law and this Code;

2. The applicant is unable to obtain the required Peddler's license, pursuant to LMC Section 9.16.030 due to a criminal background check;

3. The applicant has, within three (3) years immediately preceding the date of filing of the Application, had a Permit to Operate, Peddler's License, or related permit, which was issued within the State of California, suspended or revoked;

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4. The applicant has knowingly made a material misstatement in the Application for a Permit to Operate;
5. There have been excessive calls for service to the Lodi Police Department within the twelve (12) months preceding the Application with inadequate response by the Vendor or Business Owners or operators, involving the commission of crimes, disturbances, public nuisances, or applicable LMC violation investigations, which are located, committed, or generated on the premises of the Vending operation.
6. Failure to obtain clearance from San Joaquin County Environmental Health for operation of a Motorized Food Wagon or Conveyance.

- E. As an alternative to a denial of an Application for a Permit to Operate for failure to meet the requirements of this Chapter, the City Manager or designee may issue a Conditional Permit to Operate. Said Conditional Permit to Operate shall be issued with conditions imposed on the operation of the premises. All conditions shall be complied with in order to maintain the Conditional Permit to Operate in a valid status. Failure to comply with the imposed conditions will subject the Conditional Permit to Operate to suspension and/or revocation procedures under this Chapter or any other remedy authorized by law.

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#### 9.18.045 Permit Caps

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- A. The total number of vendor permits issued pursuant to this Section shall not exceed the numbers set forth below:

1. MOTORIZED FOOD PREPARATION UNITS:	22
2. PRODUCE/SEAFOOD TRUCKS:	3

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- B. In the event a vendor permit issued pursuant to this Chapter is either revoked or is allowed by its holder to expire it shall immediately become null and void and shall be forfeited. Any permit forfeited under this Chapter shall be available to any other person who first complies with all other applicable provisions of this Chapter and this Code.

- C. In the event the holder of any vendor permit under this Chapter ceases operations in Lodi, any permits issued pursuant to this section shall be transferable provided that the transferee meets all other provisions of this Chapter. In the event of a sale, the seller's vendor permit shall immediately become null and void and the seller shall no longer conduct business pursuant to this Chapter. Within five business days of any sale or transfer, the seller shall notify the City of such sale and shall provide any proof of sale as may be required by the City.

A. A Vendor may locate and operate in the public right-of-way subject to the following conditions:

1. A Vendor shall not operate within three hundred (300) feet of any \_\_\_\_\_ school grounds, park, playground, or City operated recreation \_\_\_\_\_ center.

2. A Vendor shall not operate within one hundred (100) feet of any \_\_\_\_\_ street intersection.

3. In addition to the above, a Vendor must comply with the following regulations, depending upon the type of use in which it is located:

a. Residential Use Area:

i. In a Residential Use Area, a Vendor shall move not less than four hundred (400) feet at least every ten (10) minutes and may not return to a previous location or within four hundred (400) feet of a previous location on the same calendar day.

ii. Permitted hours of operation are from 7:00 a.m. to 8:00 p.m.

iii. A Vendor may not be located within four hundred (400) feet of another Vendor.

b. Commercial Use Area:

i. In a Commercial Use Area, a Vendor shall move not less than four hundred (400) feet at least every three (3) hours and may not return to a previous location or within four hundred (400) feet of a previous location on the same calendar day.

ii. Permitted hours of operation are from 6:00 a.m. to 12:00 a.m.

iii. If a Vendor is located in a Commercial Use Area and is within four hundred (400) feet of a residence, Vendor shall comply with the requirements listed above for Residential Use Area.

c. Industrial Use Area:

i. In an Industrial Use Area, a Vendor may operate twenty-three (23) hours a day.

ii. If a Vendor is located in an Industrial Use Area and is also within four hundred feet (400) feet of a residence, it shall comply with the requirements listed above for Residential Use Area.

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4. No Vendor shall be located or maintained on public property, including bicycle pathways, inconsistent with any provision of this Code.

B. A Vendor may locate on private property subject to the following conditions:

1. Incidental to a primary use with the primary use having a valid City of Lodi Business Tax Certification;
2. A Vendor shall not be the primary use of a parcel unless the parcel is developed in accordance with the standards of the City's Development Code for that use and the zoning designation for the parcel.
3. A Vendor shall not be permitted as an accessory use to a stand-alone parking lot.
4. A Vendor cannot utilize, or be located on, parking spaces required for the primary use on the parcel.
5. A Vendor cannot be located on a vacant, undeveloped parcel or lot.
6. A Vendor must be located on a paved concrete or asphalt parking surface.
7. A Vendor cannot interfere with access, aisles, circulation, driveways, or fire lanes and hydrants.
8. A Vendor cannot interfere with pedestrian movement or create a pedestrian hazard.
9. Vending on private property within two-hundred feet of a residential zone is permitted only through the provisions of a Conditional Permit to Operate. Conditions will not be imposed in a manner that unreasonably prevents Mobile Food Vendors from operating solely because they are within two-hundred feet of a residential zone.

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#### 9.18.060 Exemption

- A. Any person engaged in Vending conducted in connection with the operations of a state-certified open-air market or an authorized street fair or event under a special event permit, lease, real property license, agreement, or other entitlements issued by the City of Lodi.
- B. Any person delivering any goods by vehicle where such goods have been ordered in advance for such delivery from any business located at a permanent location and which goods are being delivered from such location to the customer by vehicle, regardless of the point of sale.
- C. This Chapter shall not apply to the sale or distribution of any newspaper, flier, or handbill.

**Deleted:** Section 9.18.050

9.18.070 Application of Other Laws and Regulations

- A. The provisions of this Chapter prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this Chapter, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.
- B. The provisions of this Chapter imposing a time limit on stopping or parking shall not relieve any person from the duty to observe other more restrictive provisions of the California Vehicle Code, this Code or any other ordinances of the City, prohibiting or limiting the stopping or parking of vehicles in specified places or at specified times.

9.18.080 Condition/Appearance of Vending Site

- A. The Vending site shall be maintained in a safe and clean manner at all times.
- B. No tables, chairs, fences, shade structures, or other site furniture, (permanent or otherwise) or any freestanding signs shall be permitted in conjunction with the Vendor, except as permitted under the Conditional Permit to Operate provisions of Section 9.18.040(E).
- C. Should any other site improvements be needed for on-going Vending operations, the Vendor shall be required to apply for appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations.
- D. Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the Vendor is prohibited.

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9.18.090 Condition/Appearance of Motorized Food Wagon or Conveyance

- A. The Vendor shall display, in plain view and at all times, current permits and licenses in or on their vehicle.
- B. Any Motorized Food Wagon or Conveyance used in the course of Vending shall be entirely self-sufficient in regards to gas, water, and telecommunications.  
  
Should any utility hook-ups or connections to on-site utilities be required, the Vendor shall be required to apply for appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations.
- C. The Vendor shall not discharge items from any Motorized Food Wagon or Conveyance vehicle onto the sidewalk, gutter, storm inlets, or streets.

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9.18.100 Lighting

The Vendor shall install adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.

9.18.110 Sanitation

- A. All Motorized Food Wagons or Conveyances shall operate out of a Commissary pursuant to California Health and Safety Code Section 114287.
- B. All Motorized Food Wagons or Conveyances shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the Vendor of the Motorized Food Wagon or Conveyance shall pick up all refuse generated by such operation within a twenty-five (25) foot radius of the vehicle before such vehicle is moved. No Vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such Vendor.
- C. A Motorized Food Wagon or Conveyance shall comply with California Health and Safety Code Section 114299.5 regarding the availability of adequate toilet facilities for use by food service personnel.

9.18.120 Safety and Security

- A. No Vending shall be permitted except after the Motorized Food Wagon or Conveyance has been brought to a complete stop and parked in a lawful manner.
- B. The Vendor shall install signage in a visible location indicating that loitering is not permitted and customers may only remain on the lot for up to fifteen (15) minutes after receiving their food.
- C. The Vendor shall enforce the no loitering provisions of this Code.

9.18.130 Applicability of Regulations to Existing Business

The provisions of this Chapter shall be applicable to all persons and businesses described herein whether the herein described activities were established before or after the effective date of the ordinance enacting this Chapter into law.

9.18.140 Penalties

Any person violating any provisions or failing to comply with any of the mandatory requirements of this Chapter is subject to the following penalties:

- A. Fines
  - 1. Violations are subject to the Administrative Enforcement Provisions of this Code and the fines established in LMC Section 1.10.260;
  - 2. Three or more violations of this Chapter during any one-year period shall be deemed misdemeanors, punishable as specified in Section 1.08.010(B) of this Code.

B. Suspension/Revocation of Permit to Operate/Conditional Permit to Operate

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1. Procedure

In the event of a violation of the regulations of this Chapter, the City Manager or designee shall issue a Notice of Intent to Suspend or Revoke the Permit to Operate. The Vendor shall have the right to request a hearing, as provided in LMC Chapter 1.10, within ten (10) days of service of the Notice of Intent. If no hearing is requested, the Permit to Operate shall be revoked or suspended upon the expiration of the appeal period set forth in LMC Chapter 1.10.

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2. Basis for Suspension/Revocation of Permit to Operate:

a. Any Permit to Operate may be suspended and/or revoked by the City Manager or designee after a review, where it is determined that:

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j. The Vendor has violated the provisions of this Chapter; or

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ii. The Vendor has committed any act or engaged in action, which would constitute grounds for denial of a Permit to Operate pursuant to Section 9.18.040(D) of this Chapter; or

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iii. The Vendor has engaged in fraud, misrepresentation, or false statements in conducting the vending operation or activity; or

iv. The Vendor has failed to correct a violation under this Chapter within the time period ordered by the City; or

v. The Vendor has operated or continued to operate without a Permit to Operate or after a Permit to Operate has been suspended or revoked.

**Deleted:**

3. Basis for Suspension/Revocation of a Conditional Permit to Operate:

a. Any Conditional Permit to Operate may be suspended or revoked for:

i. Any of the basis to suspend or revoke a Permit to Operate set forth herein; or

ii. Any violation of the terms of the Conditional Permit to Operate.

9.18.150 Enforcement



The provisions of this Chapter may be enforced by any peace officer, or the Code Enforcement Division of the Lodi Police Department.

**Deleted:** or the Director of Community Development or his/her designee

**SECTION 2.** All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

**SECTION 3. No Mandatory Duty of Care.** This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 4. Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**SECTION 5.** This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect thirty (30) days from and after its passage and approval.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2009

**Deleted:** 1<sup>st</sup>

**Deleted:** August

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\_\_\_\_\_  
MAYOR HANSEN  
Mayor

**Deleted:** BOB JOHNSON

Attest:

RANDI JOHL  
City Clerk

**Deleted:** =====

State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held November 18, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_ by the following vote:

**Deleted:** July 18, 2007

**Deleted:** August 1, 2007

AYES: COUNCIL MEMBERS – \_\_\_\_\_

**Deleted:** Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

NOES: COUNCIL MEMBERS – \_\_\_\_\_

**Deleted:** None

ABSENT: COUNCIL MEMBERS – \_\_\_\_\_

**Deleted:** None

ABSTAIN: COUNCIL MEMBERS –

Deleted: None

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL, City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
City Attorney,

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¶

¶

By

–¶

JANICE D. MAGDICH¶  
Deputy City Attorney

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LODI AMENDING LODI MUNICIPAL CODE TITLE 9 – PUBLIC  
PEACE, MORALS, AND WELFARE BY REPEALING AND  
REENACTING CHAPTER 9.18, “VENDING ON STREETS,  
SIDEWALKS AND PRIVATE PROPERTY” IN ITS ENTIRETY

=====

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code (LMC) Title 9 – Public Peace, Morals, and  
Welfare – Chapter 9.18, “Vending on Streets and Sidewalks,” is hereby repealed and  
reenacted in its entirety to read as follows:

Chapter 9.18 VENDING ON STREETS, SIDEWALKS AND PRIVATE PROPERTY

9.18.010 Declaration of Purpose

The City Council expressly finds that the vending of produce and prepared or  
prepackaged foods, goods, wares, and/or services on public streets, sidewalks, or alleys  
and on private property pose unsafe conditions and special dangers to the public health,  
safety, and welfare of the residents of the City of Lodi. It is the purpose and intent of the  
City Council, in enacting this Chapter, to provide those persons who engage in those  
types of vending operations with clear and concise regulations to prevent safety, traffic,  
and health hazards, as well as to preserve the peace, safety, and welfare of the  
community.

9.18.020 Definitions

- A. “Business Owner” shall mean any person, firm, or corporation, which  
owns or controls any interest in any business engaged in vending as  
defined in Subsection J hereof.
- B. “Commissary” shall mean a food establishment in which food, containers,  
equipment, or supplies are stored or handled for use in Motorized Food  
Wagons or Conveyance.
- C. “Conveyance,” as used in this Chapter, means any vehicle (except  
Motorized Food Wagons, as defined below), trailer, cart, wagon, or stand,  
with or without wheels, which may be moved from one place to another  
under its own power or by other means.
- D. “Linear Frontage” is the method used to determine distances as used in  
this Chapter.
- E. “Mobile Food Vendor” shall mean any person as defined in this Chapter,  
who owns, controls, manages, and/or leases a Motorized Food Wagon,  
Conveyance or Produce/Seafood Truck; and/or contracts with a person(s)

to drive, operate, prepare foods, and/or vend from a Motorized Food Wagon, Conveyance or Produce/Seafood Truck.

- F. "Motorized Food Wagon" shall mean any vehicle as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, pre-packaged, or unprepared, unpackaged food or foodstuffs of any kind on any public street, alley, highway, or private street, alley, or property within the City of Lodi, including a Produce/Seafood Truck (as defined below) and a Motorized Food Production Unit (as defined below). For the purposes of this Chapter, a Motorized Food Wagon shall also include any trailer or wagon pulled by a vehicle.
- G. "Motorized Food Preparation Unit" means any vehicle or trailer and vehicle combination as defined in Section 670 of the California Vehicle Code which is equipped to 1) prepare and sell or 2) cook and sell food products.
- H. "Persons" shall mean any person, firm, partnership, association, or corporation, and includes, but is not limited to, owners, operators, drivers, lessors, and lessees of Motorized Food Wagons and Conveyances.
- I. "Produce/Seafood Truck" means any vehicle as defined by Section 670 of the California Vehicle Code which sells raw produce or seafood
- J. "Vend" or "Vending" shall mean the sale of any goods, wares, merchandise, prepared, pre-packaged, or unprepared, unpackaged food or foodstuffs of any kind from private or public property.
  - 1. Vending from a Motorized Food Wagon generally has the following characteristics:
    - a. Food is ordered and served from a take-out counter that is integral to the Motorized Food Wagon and there is typically a space for customer queuing;
    - b. Food is paid for prior to consumption;
    - c. Food and beverages are served in disposable wrappers, plates, or containers; and
    - d. Food and beverages are prepared and sold for off-site consumption.
  - 2. Vending from a Conveyance generally has the following characteristics:
    - a. Food is paid for prior to consumption;

- b. Food and beverages are served in disposable wrappers, plates, or containers; and
  - c. Food and beverages are prepared and sold for off-site consumption.
- 3. Vending from a Produce/Seafood Truck generally has the following characteristics:
  - a. Food is paid for prior to consumption; and
  - b. Food is sold for off-site consumption and/or preparation.
- K. "Vendor"/"Operator" shall mean any person who sells and makes immediate delivery, or offers for sale and immediate delivery, any goods, wares, or merchandise, or drives, operates, vends, and/or prepares food on or from a Motorized Food Wagon or Conveyance.

#### 9.18.030 Regulation of Sales

It shall be unlawful for any person to Vend, or attempt to engage in Vending or operate any vehicle or conduct any business for the purpose of Vending from any vehicle, Motorized Food Wagon or Conveyance parked, stopped, or standing upon any public street, alley, highway, or property, or private street, alley, or property within the City of Lodi except in accordance with all applicable provisions of this Code.

#### 9.18.040 Permit to Operate

A person desiring to engage in a vending operation, as defined by this Chapter, shall submit a written application for a Permit to Operate to the City Manager or designee in a form acceptable to and with all supporting information required by the City of Lodi. Such application shall be accompanied by a non-refundable, non-transferable application fee in an amount as may be established from time to time by Resolution of the City Council. Any such permit shall be required to be renewed annually and a separate non-refundable, non-transferable application fee shall be paid annually for such renewal application. Vendors must have the permit in their possession when vending. There must be at least one Vendor with a valid permit present whenever Vending is taking place.

- A. A Vendor must obtain a background check in accordance with the requirements of Section 9.16.030 of this Code.
- B. Every Vendor shall obtain a City of Lodi Business Tax Certification.
- C. As part of the Permit to Operate application, the Vendor or Business Owner shall provide the following:
  - 1. Proof of current vehicle registration and a copy of an applicable vehicle insurance policy for any vehicles used in the vending activity.

2. Four photographs (showing different exterior views) of each Motorized Food Wagon or Conveyance.
  3. A copy of a current San Joaquin County Environmental Health permit for any Motorized Food Wagon.
  4. A copy of the Vendor or Business Owner's current Business Tax Certification and applicable Board of Equalization Seller's Permit.
  5. Vendor or Business Owner must show proof of payment to a Commissary for the prior twelve (12) months for all cases involving the reissuance of a Permit; and proof of current payment for new Vendors.
  6. If the Vendor is operating on private property, the Business Owner shall provide the following:
    - a. an affidavit in a form approved by the City from the property owner (if other than self) permitting the Vendor to locate on the site;
    - b. a Site Plan, drawn to scale and with dimensions, indicating the location of all existing buildings, structures, driveways, parking spaces, traffic controls, and improvements, and the location or areas where the proposed Vending activity, structures, and improvements related to the Vending activity will be located upon the site; and
    - c. an affidavit from the business or location providing the required restroom facilities for food service workers, stating the hours that those facilities are being made available to the Mobile Food Vendor.
- D. The following may constitute grounds for denial of an Application for a Permit to Operate:
1. The Vending operation or activity as proposed by the applicant does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety, and health regulations under State law and this Code;
  2. The applicant is unable to obtain the required Peddler's license, pursuant to LMC Section 9.16.030 due to a criminal background check;
  3. The applicant has, within three (3) years immediately preceding the date of filing of the Application, had a Permit to Operate, Peddler's License, or related permit, which was issued within the State of California, suspended or revoked;

4. The applicant has knowingly made a material misstatement in the Application for a Permit to Operate;
  5. There have been excessive calls for service to the Lodi Police Department within the twelve (12) months preceding the Application with inadequate response by the Vendor or Business Owners or operators, involving the commission of crimes, disturbances, public nuisances, or applicable LMC violation investigations, which are located, committed, or generated on the premises of the Vending operation.
  6. Failure to obtain clearance from San Joaquin County Environmental Health for operation of a Motorized Food Wagon or Conveyance.
- E. As an alternative to a denial of an Application for a Permit to Operate for failure to meet the requirements of this Chapter, the City Manager or designee may issue a Conditional Permit to Operate. Said Conditional Permit to Operate shall be issued with conditions imposed on the operation of the premises. All conditions shall be complied with in order to maintain the Conditional Permit to Operate in a valid status. Failure to comply with the imposed conditions will subject the Conditional Permit to Operate to suspension and/or revocation procedures under this Chapter or any other remedy authorized by law.

#### 9.18.045 Permit Caps

- A. The total number of vendor permits issued pursuant to this Section shall not exceed the numbers set forth below:
 

1. MOTORIZED FOOD PREPARATION UNITS:	22
2. PRODUCE/SEAFOOD TRUCKS:	3
- B. In the event a vendor permit issued pursuant to this Chapter is either revoked or is allowed by its holder to expire it shall immediately become null and void and shall be forfeited. Any permit forfeited under this Chapter shall be available to any other person who first complies with all other applicable provisions of this Chapter and this Code.
- C. In the event the holder of any vendor permit under this Chapter ceases operations in Lodi, any permits issued pursuant to this section shall be transferable provided that the transferee meets all other provisions of this Chapter. In the event of a sale, the seller's vendor permit shall immediately become null and void and the seller shall no longer conduct business pursuant to this Chapter. Within five business days of any sale or transfer, the seller shall notify the City of such sale and shall provide any proof of sale as may be required by the City.

9.18.050 Location

A. A Vendor may locate and operate in the public right-of-way subject to the following conditions:

1. A Vendor shall not operate within three hundred (300) feet of any school grounds, park, playground, or City operated recreation center.

2. A Vendor shall not operate within one hundred (100) feet of any street intersection.

3. In addition to the above, a Vendor must comply with the following regulations, depending upon the type of use in which it is located:

a. Residential Use Area:

i. In a Residential Use Area, a Vendor shall move not less than four hundred (400) feet at least every ten (10) minutes and may not return to a previous location or within four hundred (400) feet of a previous location on the same calendar day.

ii. Permitted hours of operation are from 7:00 a.m. to 8:00 p.m.

iii. A Vendor may not be located within four hundred (400) feet of another Vendor.

b. Commercial Use Area:

i. In a Commercial Use Area, a Vendor shall move not less than four hundred (400) feet at least every three (3) hours and may not return to a previous location or within four hundred (400) feet of a previous location on the same calendar day.

ii. Permitted hours of operation are from 6:00 a.m. to 12:00 a.m.

iii. If a Vendor is located in a Commercial Use Area and is within four hundred (400) feet of a residence, Vendor shall comply with the requirements listed above for Residential Use Area.

c. Industrial Use Area:

i. In an Industrial Use Area, a Vendor may operate twenty-three (23) hours a day.

ii. If a Vendor is located in an Industrial Use Area and is also within four hundred feet (400) feet of a residence, it shall comply with the requirements listed above for Residential Use Area.



4. No Vendor shall be located or maintained on public property, including bicycle pathways, inconsistent with any provision of this Code.

B. A Vendor may locate on private property subject to the following conditions:

1. Incidental to a primary use with the primary use having a valid City of Lodi Business Tax Certification;
2. A Vendor shall not be the primary use of a parcel unless the parcel is developed in accordance with the standards of the City's Development Code for that use and the zoning designation for the parcel.
3. A Vendor shall not be permitted as an accessory use to a stand-alone parking lot.
4. A Vendor cannot utilize, or be located on, parking spaces required for the primary use on the parcel.
5. A Vendor cannot be located on a vacant, undeveloped parcel or lot.
6. A Vendor must be located on a paved concrete or asphalt parking surface.
7. A Vendor cannot interfere with access, aisles, circulation, driveways, or fire lanes and hydrants.
8. A Vendor cannot interfere with pedestrian movement or create a pedestrian hazard.
9. Vending on private property within two-hundred feet of a residential zone is permitted only through the provisions of a Conditional Permit to Operate. Conditions will not be imposed in a manner that unreasonably prevents Mobile Food Vendors from operating solely because they are within two-hundred feet of a residential zone.

9.18.060 Exemption

- A. Any person engaged in Vending conducted in connection with the operations of a state-certified open-air market or an authorized street fair or event under a special event permit, lease, real property license, agreement, or other entitlements issued by the City of Lodi.
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- A. The provisions of this Chapter prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this Chapter, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.
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The Vendor shall install adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.

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9.18.140 Penalties

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  - 1. Violations are subject to the Administrative Enforcement Provisions of this Code and the fines established in LMC Section 1.10.260;
  - 2. Three or more violations of this Chapter during any one-year period shall be deemed misdemeanors, punishable as specified in Section 1.08.010(B) of this Code.

B. Suspension/Revocation of Permit to Operate/Conditional Permit to Operate

1. Procedure

In the event of a violation of the regulations of this Chapter, the City Manager or designee shall issue a Notice of Intent to Suspend or Revoke the Permit to Operate. The Vendor shall have the right to request a hearing, as provided in LMC Chapter 1.10, within ten (10) days of service of the Notice of Intent. If no hearing is requested, the Permit to Operate shall be revoked or suspended upon the expiration of the appeal period set forth in LMC Chapter 1.10.

2. Basis for Suspension/Revocation of Permit to Operate:

a. Any Permit to Operate may be suspended and/or revoked by the City Manager or designee after a review, where it is determined that:

- i. The Vendor has violated the provisions of this Chapter; or
- ii. The Vendor has committed any act or engaged in action, which would constitute grounds for denial of a Permit to Operate pursuant to Section 9.18.040(D) of this Chapter; or
- iii. The Vendor has engaged in fraud, misrepresentation, or false statements in conducting the vending operation or activity; or
- iv. The Vendor has failed to correct a violation under this Chapter within the time period ordered by the City; or
- v. The Vendor has operated or continued to operate without a Permit to Operate or after a Permit to Operate has been suspended or revoked.

3. Basis for Suspension/Revocation of a Conditional Permit to Operate:

a. Any Conditional Permit to Operate may be suspended or revoked for:

- i. Any of the basis to suspend or revoke a Permit to Operate set forth herein; or
- ii. Any violation of the terms of the Conditional Permit to Operate.

9.18.150 Enforcement

The provisions of this Chapter may be enforced by any peace officer, or the Code Enforcement Division of the Lodi Police Department.

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SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect thirty (30) days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
LARRY HANSEN  
Mayor

Attest:

RANDI JOHL  
City Clerk

=====

State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held November 18, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

\_\_\_\_\_  
RANDI JOHL, City Clerk

Approved as to Form:

\_\_\_\_\_  
D. STEPHEN SCHWABAUER  
City Attorney



## **CITY OF LODI COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Adopt a Resolution Setting Forth the City of Lodi's Commitment to Obesity Prevention as Outlined in the Healthy Eating Active Living (HEAL) Campaign

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Adopt a resolution setting forth the City of Lodi's commitment to obesity prevention as outlined in the Healthy Eating Active Living (HEAL) Campaign.

**BACKGROUND INFORMATION:** The Healthy Eating Active Living (HEAL) Cities Campaign is a partnership of the League of California Cities, the California Center for Public Health Advocacy and the Cities, Counties and School Partnership. The goal of the campaign is to work with cities to adopt policies that will improve physical activity and access to healthy food for all residents.

On November 3, 2009, the City Council received a Shirtsleeve Session presentation from Kanat Tibet representing the Campaign. The presentation outlined statistical information related to childhood obesity, and the overall risk factors related to obesity and physical inactiveness including premature illness, disability, and death. The California Center for Public Advocacy determined that 28.6% of 5<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> graders in Lodi are overweight.

As a part of the ongoing effort to actively involve local government in combating obesity and physical inactiveness, cities are encouraged to adopt a resolution supporting the underlying principle of the Campaign based on local conditions and the needs of their respective communities.

If the City Council so desires, it may adopt the attached resolution recognizing obesity as a public health concern and acknowledging societal and environmental changes will be necessary to implement healthier lifestyle choices for residents. Specific policies may be adopted in the future based on community needs if the Council so desires.

**FISCAL IMPACT:** There is no fiscal impact to adopt a resolution supporting the underlying principle of the HEAL Campaign, although specific policies could have a financial impact upon the City in the future.

**FUNDING AVAILABLE:** Not applicable.

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Blair King  
City Manager

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APPROVED: \_\_\_\_\_  
Blair King, City Manager

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
PROMOTING THE CITY OF LODI AS A HEALTHY  
EATING ACTIVE LIVING CITY

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WHEREAS, in 2004, the League of California Cities adopted an Annual Conference resolution to encourage cities to embrace policies that facilitate activities to promote healthier lifestyles and communities, including healthy diet and nutrition and adoption of city design and planning principles that enable citizens of all ages and abilities to undertake exercise; and

WHEREAS, the League of California Cities has a strategic goal to promote and develop safe and healthy cities; and

WHEREAS, The California Center for Public Health Advocacy's 2004 California Physical Fitness Test of 1,274 5<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> graders in Lodi show that 28.6 percent of the students tested were overweight; and

WHEREAS, more children are being diagnosed with diseases linked to overweight and obesity previously seen only in adults, such as Type 2 diabetes and heart disease; and

WHEREAS, more than half of California's adults are overweight or obese; and

WHEREAS, overweight children and adults are at greater risk for numerous adverse health consequences, including stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression and other debilitating diseases;<sup>i</sup> and

WHEREAS, obesity shortens the average lifespan by at least four to nine months, and if childhood obesity continues to increase, it could reduce life expectancy by five years over the next several decades;<sup>ii</sup> and

WHEREAS, obesity takes a tremendous toll on the health, productivity of all Californians, in medical bills, workers compensation and lost productivity, costing in excess of \$41.2 billion a year; and

WHEREAS, The United States Surgeon General has issued a call to action to prevent and decrease overweight and obesity,<sup>iii</sup> and The United States Department of Health and Human Services has made reducing the proportion of overweight and obese children and adolescents a key goal;<sup>iv</sup> and

WHEREAS, the Center for Disease Control and Prevention recommends at least 30 minutes of moderate physical activity at least five days a week for adults, and at least 60 minutes of moderate to vigorous intensity physical activity for children every day;<sup>v</sup> and



WHEREAS, the quality of the built environment, including neighborhood safety, sidewalks, streets, public transportation, restaurant and convenience store density, access to parks, trails and grocery stores, has a significant impact on obesity rates;<sup>vi</sup> and

WHEREAS, in light of the foregoing statistics and considerations, the City of Lodi commits to do all it can to decrease the rate of obesity and overweight in its communities and is committed to implementing the necessary laws or policies to create healthier work, school, and neighborhood environments conducive to healthier eating and increased physical activity among residents;

RESOLVED that the City of Lodi will become a Healthy Eating Active Living City;

BE IT FURTHER RESOLVED that the City of Lodi Parks and Recreation Department will work with the Boosters of Boys and Girls Sports to encourage healthy food choices for Park Concessions and Recreation Programs;

BE IT FURTHER RESOLVED that the City of Lodi General Plan will:

- Emphasize grid pattern development and other features to promote walk able neighborhoods;
- Include bike lines to encourage biking and other forms of physical activity;
- Emphasize Transit Oriented Development to encourage walking before beginning long distance travel;

BE IT FURTHER RESOLVED that development proposals and plans will be encouraged to include:

- Zoning to support farmers markets and community gardens;
- Plans for walkability and bikeability;
- Connectivity between the developed area, and residential neighborhoods and schools and fresh food outlets;

BE IT FURTHER RESOLVED that the City of Lodi pledges to support community efforts to establish and maintain farmers markets, recognizing that farmers markets provide fresh produce to community residents, support small farmers, and build community and further pledges to work with farmers markets to consider means to accept food stamps for fresh fruits and vegetables.

Dated: November 18, 2009

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I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2009-\_\_\_\_\_

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<sup>i</sup> US Department of Health and Human Services, Office of the Surgeon General. *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity*. Rockville: US Department of Health and Human Services, Public Health Service, Office of the Surgeon General, 2001. Available at:

[http://surgeongeneral.gov/topics/obesity/calltoaction/fact\\_adolescents.htm](http://surgeongeneral.gov/topics/obesity/calltoaction/fact_adolescents.htm).

<sup>ii</sup> Olshansky JS, Passaro DJ, Hershow RC, et al. "A Potential Decline in Life Expectancy in the United States in the 21st Century." *New England Journal of Medicine*, 352: 1138-1145, 2005.

<sup>iii</sup> *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity, supra* note i.

<sup>iv</sup> US Department of Health and Human Services, Office of Disease Prevention and Health Promotion. *Healthy People 2010*. Available at:

[http://www.healthypeople.gov/Document/HTML/uih/uih\\_4.htm](http://www.healthypeople.gov/Document/HTML/uih/uih_4.htm).

<sup>v</sup> Centers for Disease Control, Division of Nutrition , Physical Activity and Obesity, National Center for Chronic Disease Prevention and Health Promotion, "Physical Activity for Everyone." Available at [www.cdc.gov/physicalactivity/everyone/guidelines](http://www.cdc.gov/physicalactivity/everyone/guidelines).

<sup>vi</sup> KM Booth, MM Pinkston, WS Carlos et al. "Obesity and the Built Environment." *Journal of the American Dietetic Association* 2005;105:S110-S117.



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Report on October 16, 2009 Downtown Summit

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Manager

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**RECOMMENDED ACTION:** Provide direction.

**BACKGROUND INFORMATION:** On August 19, 2009, the City Council received a report and endorsed holding a one-day “Downtown Summit” to gather and rally downtown property owners and merchants to review the progress of downtown revitalization, assess current conditions, and look towards the future. A little over a decade has passed since the City completed a series of capital improvements to revitalize the downtown core of Lodi.

The Downtown Summit was held October 16<sup>th</sup> at Hutchins Street Square. Generally, most people considered the event a success with a reasonable level of attendance, dynamic speakers, and an engaged audience. At its informal Shirtsleeve meeting on October 27<sup>th</sup>, the Council received a preliminary report about the event. Because the Shirtsleeve meeting is informal with no formal action, a report has been brought back to the Council for direction or action as the Council feels appropriate.

The Downtown summit was launched with a survey of visitors, merchants and property owners. Three speakers offered insights, and attendees offered their opinions on priorities and action steps. Many suggestions for further actions were received.

The following are some of the issues identified and discussed:

- Development of housing along the Sacramento Street corridor (or building a “captured audience” for downtown)
- Help or encouragement in assembling and/or preparing sites for development – specifically Lodi Avenue and School and Church Streets
- Encourage the development of under utilized property along Lodi Avenue between School and Elm Street
- Seek a second daytime anchor
- Increase the level of promotions and marketing
- Attract more restaurants
- Develop a directional sign program for downtown
- Seek to form or encourage property owners to participate in a Business Improvement District as a joint effort with business owners
- Recruit more retail, specialty shops

(Note: the above list is not comprehensive, but captures most of the significant suggestions.)

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

One will note that the above is an outcome-oriented list, some, but little, discussion occurred with regard to tools, strategies, or applied techniques to achieve desired outcomes. Suggestions for further actions focusing on implementation techniques and strategies could include:

- 1) Receive a presentation on the feasibility of a combined property owner merchant Business Improvement District – (note: a combined BID could serve as a method to pay for a directional sign program);
- 2) Receive a presentation on the costs, timing, feasibility, and practicality of a directional “wayfarer” sign program;
- 3) Direct staff to ensure that proposed General Plan policies are consistent with downtown summit outcomes;
- 4) Provide funding to fill Economic Coordinator position as soon as employee salaries, hours, and/or benefits are restored;
- 5) Commission a market study to identify the feasibility of a daytime anchor and/or update a downtown hotel market study;
- 6) Encourage dialogue between property owners of opportunity sites by inviting them to meet with the Mayor;
- 7) Participate with the Wine Grape Commission and Visit Lodi in a “branding study” and campaign;
- 8) Seek funding, look for opportunities, and remove impediments to encourage mixed use housing development in the downtown area, specifically along Sacramento Street;
- 9) Research the possibility of zoning or standards flexibility or other tools to incentive the establishment of restaurants and wine tasting outlets along School Street;
- 10) Commission a Downtown revitalization implementation plan

The Council is invited to offer comments and provide additions to the above list.

**FISCAL IMPACT:** With the exception of consumable supplies, costs for the event were provided via private sponsors. The total value of sponsors was approximately \$8,000. The amount is approximate because of in-kind donations. Sponsors: F&M Bank, Rosewood Bar & Grill, Waste Management, Atlas Properties, Kirsten Company, Tokay Development, PG&E, Pennino & Associates, and the Holiday Inn, with help from the Youth Commission.

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Blair King, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

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**AGENDA TITLE:** Adopt Resolution Approving Side Letter Amending the 2008-2010 Memorandum of Understanding Between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operations Unit.

**MEETING DATE:** November 18, 2009

**SUBMITTED BY:** Human Resources Manager

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**RECOMMENDED ACTION:** Adopt resolution approving side letter amending the 2008-2010 Memorandum of Understanding between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operations Unit.

**BACKGROUND INFORMATION:** This agreement modifies Article XII (Tools and Uniform Allowance) of the current Maintenance and Operations Memorandum of Understanding between AFSCME and the City to Lodi to include the positions of Chief Wastewater Plant Operator and Wastewater Plant Operator I/II/III. These positions should receive a uniform allowance consistent with other employees at the Wastewater Treatment Plant.

The recommended elements of the agreement are included in Exhibit A.

**FISCAL IMPACT:** Annual cost approximately \$1,500.

**FUNDING AVAILABLE:** Increased costs will be absorbed within existing appropriations of the Wastewater Operations Fund.

Respectfully submitted,

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Jordan Ayers  
Deputy City Manager/Internal Services Director

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Dean Gualco  
Human Resources Manager

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APPROVED: \_\_\_\_\_  
Blair King, City Manager

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
A SIDE LETTER AMENDING THE 2008-2010 MEMORANDUM  
OF UNDERSTANDING BETWEEN THE CITY OF LODI AND  
AFSCME COUNCIL 57 LOCAL 146-AFL-CIO MAINTENANCE  
AND OPERATIONS UNIT (M/O UNIT)

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BE IT RESOLVED that the Lodi City Council hereby approves a Side Letter as shown on Exhibit A attached, amending the 2008-2010 Memorandum of Understanding between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operations Unit (M/O Unit) modifying Article XII (Tools and Uniform Allowance) to include the positions of Chief Wastewater Plant Operator and Wastewater Plant Operator I/II/III.

Dated: November 18, 2009

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I hereby certify that Resolution No. 2009-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –  
NOES: COUNCIL MEMBERS –  
ABSENT: COUNCIL MEMBERS –  
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

**EXHIBIT A**

**SIDE LETTER TO THE AFSCME COUNCIL 57 LOCAL 146-AFL-CIO  
MAINTENANCE & OPERATIONS UNIT MOU**

Whereas, the City of Lodi and the American Federation of State, County and Municipal Employees (Maintenance and Operators Unit) are parties to a Memorandum of Understanding effective through December 31, 2010; and

Whereas, the parties desire to enter into this side letter to create a mechanism whereby the City of Lodi will provide all necessary uniforms to include a jacket, pants and shirts for two additional classifications:

- Chief Wastewater Plant Operator
- Wastewater Plant Operator I/II/III.

NOW, THEREFORE, the parties agree as follows:

**ARTICLE XII – TOOLS AND UNIFORM ALLOWANCE**

Section 12.1 of the Memorandum of Understanding will be modified to include the positions of Chief Wastewater Plant Operator and Wastewater Plant Operator I/II/III.

This Side Letter shall not become effective until approved by the Lodi City Council.

CITY OF LODI,

AFSCME Council 57 Local 146-AFL-  
CIO Maintenance & Operations Unit

\_\_\_\_\_  
Blair King, City Manager

BY \_\_\_\_\_  
Business Agent

\_\_\_\_\_  
Human Resources Manager

ATTEST:

\_\_\_\_\_  
RANDI JOHL, J.D., City Clerk

\_\_\_\_\_  
D. STEPHEN SCHWABAUER



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Consider Holding a Special City Council Meeting to Discuss the Possibility of Developing a New Proposed Redevelopment Project/Tax Increment Plan

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Manager

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**RECOMMENDED ACTION:** Direction requested.

**BACKGROUND INFORMATION:** Mayor Hansen and Councilmember Johnson have requested that the Manager ask whether or not the Council wishes to consider the development of a new proposed Redevelopment Project/Tax Increment Plan.

If the Council is interested, it is recommended that a Special Meeting be called. The Council could debate whether to consider pursuing a new Redevelopment Plan, the issue of when and other timing matters, the possibility of an advisory vote, the imposition of limitations, and the form of a Redevelopment/Tax Increment Plan (e.g. to fund public facilities and public improvements only).

Possible dates for a Special Meeting are subject to the Council Members availability.

**FISCAL IMPACT:** In regard to holding a Special Meeting, costs are insignificant.

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Blair King, City Manager

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APPROVED: \_\_\_\_\_  
Blair King, City Manager





## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve the “Holiday at the Lake” Event for December 11-12, 2009

**MEETING DATE:** November 18, 2009

**PREPARED BY:** James M. Rodems – Interim Director/Parks and Recreation

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**RECOMMENDED ACTION:** Approve the “Holiday at the Lake” event for December 11-12, 2009.

**BACKGROUND INFORMATION:** In a continued effort to leverage department resources and provide meaningful programming to the community, the Recreation staff has developed a new event, “Holiday at the Lake.” The event is intended to bring the community out for a seasonal gathering, market the City’s recreational offerings and highlight Lodi Lake Park as a regional park.

The Recreation Commission, in its continuing efforts to provide cogent and verdant opportunities for the community to gather under the banner of Parks and Recreation, approved this event unanimously at the November 3, 2009, Recreation Commission meeting.

“Holiday at the Lake” is a free community event anchored by the Christmas Tree run traditionally held the second weekend of December. Staff is coordinating with numerous organizations to provide booths, decorations with lights, crafters, and performers of holiday carols throughout the event. Free arts and crafts programs will be provided for children during the event, and refreshments also will be available. The programs will be provided by the Recreation Division’s Afternoon School Program staff, who also will be able to answer questions about future Arts/Cultural and Recreational programs.

The event is scheduled from 5:30 p.m. to 9 p.m. Friday, December 11, and from noon to 8 p.m. on Saturday, December 12.

**FISCAL IMPACT:** None: Event is programmed to be sponsored and cost recovery only.

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James M. Rodems  
Community Center Director

Attachments

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APPROVED: \_\_\_\_\_  
Blair King, City Manager



**CITY OF LODI**  
**COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$3,672.99).

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Attorney's Office

**RECOMMENDED ACTION:** Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$3,672.99).

**BACKGROUND INFORMATION:** Listed below is an invoice for services incurred relative to the Environmental Litigation that is currently outstanding and needs to be considered for payment.

**Folger Levin & Kahn - Invoices Distribution**

Matter No.	Invoice No.	Date	Description	Water Acct.
8002	117637	September-09	People v. M&P	\$ 691.00
8001	117954	October-09	General Advice	\$ 705.78
8002	117953	October-09	People v. M&P	\$ 2,276.21
				<u>\$ 3,672.99</u>

**FISCAL IMPACT:** This expense will be paid out of the Water Fund.

**FUNDING AVAILABLE:** 184010.7323 - \$3,672.99

\_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney

APPROVED:

\_\_\_\_\_  
Blair King, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Ordinance No. 1826 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 5 – Permits and Regulations – By Adding Chapter 5.17, 'State Video Franchises' "

**MEETING DATE:** November 18, 2009

**PREPARED BY:** City Manager's Office

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**RECOMMENDED ACTION:** Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1826.

**BACKGROUND INFORMATION:** Ordinance No. 1826 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 5 – Permits and Regulations – By Adding Chapter 5.17, 'State Video Franchises' " was introduced at the regular City Council meeting of November 4, 2009.

**ADOPTION:** With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934.***

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937.***

This ordinance has been approved as to form by the City Attorney.

**FISCAL IMPACT:** Adopting the ordinance with a 1-percent PEG fee will generate approximately \$80,000 per year for video-related capital acquisition/repairs. For a customer subscribing only to the 100-channel digital starter service, the increased cost would be approximately 58 cents a month.

**FUNDING AVAILABLE:** Not applicable.

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Jeff Hood  
Communications Specialist

**Attachments:**  
Ordinance

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APPROVED: \_\_\_\_\_  
Blair King, City Manager

ORDINANCE NO. 1826

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LODI AMENDING LODI MUNICIPAL CODE  
TITLE 5 – PERMITS AND REGULATIONS – BY ADDING  
CHAPTER 5.17, “STATE VIDEO FRANCHISES”

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WHEREAS, the Legislature of the State of California (the State) has adopted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA); and

WHEREAS, the Governor of the State of California signed DIVCA on September 29, 2006; and

WHEREAS, DIVCA became effective on January 1, 2007; and

WHEREAS, DIVCA establishes a regulatory structure for the State to issue franchises to video service providers; and

WHEREAS, DIVCA establishes that local entities, such as the City of Lodi, are responsible for administration and implementation of certain provisions of DIVCA; and

WHEREAS, DIVCA requires that the City establish, by ordinance, financial support provisions for Public, Educational and Governmental Access (PEG) channel facilities; and

WHEREAS, DIVCA requires that the City adopt, by ordinance or resolution, a schedule of penalties for any material breach by a State video franchise holder for violation of customer service and protection standards that the City is permitted to enforce; and

WHEREAS, as of November 4, 2009, there are two State-franchised cable operators providing cable service within the City; and

WHEREAS, two of the cable franchises in the City are held by Comcast and AT&T; and

WHEREAS, former City franchise-holder Comcast no longer provides noncash support to the City for PEG programming or facilities.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 5 – Permits and Regulations – is hereby amended by adding Chapter 5.17, “State Video Franchises,” to read as follows:

## CHAPTER 5.17 STATE CABLE TELEVISION FRANCHISES

### Section:

- 5.17.010 Purpose.
- 5.17.020 Definitions and Interpretation of Language.
- 5.17.030 State Franchise Holder Fee.
- 5.17.040 State Franchise Holder PEG Fees.
- 5.17.050 Payment of Fees.
- 5.17.060 Audits.
- 5.17.070 Late Payments.
- 5.17.080 Lease of City Property or Network.
- 5.17.090 Customer Service and Consumer Protection Standards.
- 5.17.100 Penalties for Violations of Standards.
- 5.17.110 General Requirements.
- 5.17.120 Permits.
- 5.17.130 Terms and Conditions.
- 5.17.140 Relocation of Franchise Property and Appurtenances.
- 5.17.150 Removal of Abandoned Facilities.
- 5.17.160 Notification to Residents Regarding Construction or Maintenance.
- 5.17.170 Identification Required.
- 5.17.180 Construction Requirements and Protection of Health and Safety.
- 5.17.200 Emergency Alert Systems.
- 5.17.210 Interconnection for PEG Programming.
- 5.17.220 Notices.
- 5.17.230 Rights Reserved.
- 5.17.240 Compliance with Law.

### 5.17.010 PURPOSE.

This Chapter applies to all cable service or video service providers who are applying for, or have been awarded, a franchise under California Public Utilities Code Section 5800 et seq., the Digital Infrastructure and Video Competition Act of 2006, ("DIVCA"), to serve any area within the City of Lodi, including any cable service or video service providers who are subject to DIVCA. By this Chapter the City of Lodi intends to assume to the fullest extent possible all obligations, rights and privileges afforded to it by DIVCA and any other applicable law. Moreover, to the extent this Ordinance is pre-empted by DIVCA now or as amended in the future, the requirement of DIVCA shall control.

### 5.17.020 DEFINITIONS AND INTERPRETATION OF LANGUAGE.

For purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section. Unless otherwise expressly stated, words not defined in this Chapter shall be given the meaning set forth in California Public Utilities Code, Section 5800 et seq. as amended from time to time. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and "including" and "include" are not limiting. The word "shall" is always mandatory.

- (a) Access, PEG access, PEG use, or PEG. "Access," "PEG access," "PEG use," or "PEG" means the availability of a cable or video system for public, educational, or governmental use by various agencies, institutions, organizations, groups, and individuals, including the City of Lodi and its City use channels or any existing agreement between the City and any incumbent cable operator, to acquire, create, and distribute programming not under a state franchise holder's editorial control.
- (b) City. "City" means the City of Lodi, California.
- (c) City Council. "City Council" means the City Council of the City of Lodi.
- (d) City Manager. "City Manager" means the City Manager of the City of Lodi or his or her designee.
- (e) Gross revenues. "Gross revenues" means all revenues actually received by the holder of a state franchise that are derived from the operation of the holder's network to provide cable service or video service within the incorporated areas of the City, subject to the specifications of California Public Utilities Code Section 5860.
- (f) Director. "Director" means the Deputy City Manager/Internal Services Director of the City of Lodi or his or her designee.
- (g) State Franchise Holder, Holder of a State Franchise, Holder of the State Franchise, or Holder. "State Franchise Holder," "holder of a state franchise," "holder of the state franchise," or "holder" means any person or group of persons who has been issued a franchise by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in Public Utilities Code Section 5830, within any portion of the City of Lodi.

#### 5.17.030 STATE FRANCHISE HOLDER FEE.

Any State Franchise Holder operating within the City shall pay to the City a State Franchise Holder fee equal to five percent of gross revenues, as defined in this Chapter and applicable law. Nothing in this section is intended to limit the City's ability to impose utility user taxes and other generally applicable taxes, fees and charges that are applied in a nondiscriminatory and competitively neutral manner.

#### 5.17.040 STATE FRANCHISE HOLDER PEG FEES.

Any State Franchise Holder operating within the City shall pay to the City a PEG fee equal to one percent of gross revenues, as defined in this Chapter and applicable law, unless a different amount is payable in accordance with applicable law or resolution adopted by the City Council.

#### 5.17.050 PAYMENT OF FEES.

The State Franchise Holder shall pay quarterly all fees required pursuant to this Chapter in a manner consistent with Public Utilities Code Section 5860. The State Franchise Holder shall deliver to the City by check or other means agreeable to the City Manager,

a separate payment for the state franchise fee and the PEG fee not later than forty-five days after the end of each calendar quarter. Each payment made shall be accompanied by a summary explaining the basis for the calculation of the fees.

#### 5.17.060 AUDITS.

The City may examine the business records of the holder of a State Franchise in a manner not inconsistent with California Public Utilities Code Section 5860(i).

#### 5.17.070 LATE PAYMENTS.

In the event a State Franchise Holder fails to make any payment required by this Chapter on or before the due dates specified in this Chapter, the City shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent unless a different rate is set by applicable law or resolution adopted by the City Council.

#### 5.17.080 LEASE OF CITY PROPERTY OR NETWORK.

To the extent not inconsistent with California Public Utilities Code Section 5840(q)(2)(B), in the event a State Franchise Holder desires to lease access to City property beyond the access conferred by its State Franchise or to a network owned or controlled by the City, the City may set terms and charge a fee for access to the property or City network separate and apart from any franchise fee or other fee charged to the State Franchise Holders pursuant to this Chapter. The City Council may set any such fee by resolution.

#### 5.17.090 CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS.

Each State Franchise Holder shall comply with all applicable customer service and consumer protection standards, including, to the extent not inconsistent with California Public Utilities Code Section 5900, all existing and subsequently enacted customer service and consumer protection standards established by local, state or federal law and regulation.

#### 5.17.100 PENALTIES FOR VIOLATIONS OF STANDARDS.

- (a) The City shall monitor compliance with and enforce the provisions of this Chapter and DIVCA.
- (b) For any material breach, as defined in California Public Utilities Code Section 5900(j), by a State Franchise Holder of applicable customer service and consumer protection standards, the City Manager, or the City Manager's designee, in his or her sole discretion may impose the following fines or penalties:
  - (1) For the first occurrence of a material breach, a fine of five hundred dollars shall be imposed for each day the violation remains in effect, not to exceed one thousand five hundred dollars for each violation.

- (2) For a second material breach of the same nature within twelve months, a fine of one thousand dollars shall be imposed for each day the violation remains in effect, not to exceed three thousand dollars for each violation.
- (3) For a third or further material breach of the same nature within twelve months, a fine of two thousand five hundred dollars shall be imposed for each day the violation remains in effect, not to exceed seven thousand five hundred dollars for each violation.
- (c) Any penalties imposed by the City shall be imposed in a manner not inconsistent with California Public Utilities Code Section 5900.
- (d) To the extent not inconsistent with California Public Utilities Code Section 5900, the City, acting through its City Manager or his or her designee, in its sole discretion may waive, modify, or defer the imposition of a penalty.

#### 5.17.110 GENERAL REQUIREMENTS.

Except as expressly provided in this Chapter, the provisions of this Chapter shall apply to all work performed by or on behalf of a State Franchise Holder upon, above or below any street, highway, sidewalk, parkway, alley or other public right-of-way of any kind whatsoever within the City.

#### 5.17.120 PERMITS.

- (a) Prior to commencing any work, a State Franchise Holder shall apply for and obtain a permit in accordance with the applicable provisions of this Chapter and Chapter 12.04 of this Code and shall comply with all other applicable laws and regulations, including, but not limited to, all applicable requirements of Public Resources Code Section 21000 et seq. (the California Environmental Quality Act).
- (b) The Public Works Director shall either approve or deny a State Franchise Holder's application for any permit required under this Chapter in accordance with the applicable terms of Chapter 12.04.
- (c) If the Public Works Director denies a State Franchise Holder's application for a permit, the Director shall, at the time of notifying the applicant of denial, furnish to the applicant an explanation of the reason or reasons for the denial.
- (d) A State Franchise Holder that has been denied a permit by final decision of the Public Works Director may appeal the denial to the City Council whose decision shall be final. Upon receiving a notice of appeal, the City Council shall consider the permit de novo.
- (e) A State Franchise Holder whose permit has been revoked may appeal that decision to the City Council in writing within ten (10) days after issuance of the notice of revocation.



#### 5.17.130 TERMS AND CONDITIONS.

The work of constructing, laying, replacing, maintaining, repairing, abandoning, or removing all property and appurtenances of the State Franchise Holder in, over, under, along, or across any City right-of-way as defined in Chapter 12.04 shall be done to the satisfaction of the Public Works Director and, except where a different outcome is prescribed by applicable law, at the expense of the State Franchise Holder, and in accordance with the terms and conditions of Chapter 12.04.

#### 5.17.140 RELOCATION OF FRANCHISE PROPERTY AND APPURTENANCES.

- (a) The City reserves the right to change the grade, change the width, or alter or change the location of any City right-of-way. If any Franchise Holder's property or appurtenance is installed or maintained by the State Franchise Holder on, along, under, over, in, upon, or across any public right-of way in a manner which prevents or interferes with any alteration or other change of grade, traffic needs, operation, maintenance, improvement, repair, construction, reconstruction, widening, or relocation of the right-of-way, or any work or improvement upon the right-of-way, the State Franchise Holder shall relocate any such property or appurtenances to the satisfaction of the Public Works Director, and, to the extent consistent with existing law at no expense to the City, upon receipt of a written request from the Director to do so and in accordance with the terms of Chapter 12.04. Should the State Franchise Holder neglect or fail to relocate its facilities in a timely manner as required by law after receipt of any such notice, the State Franchise Holder shall be responsible for and shall reimburse the City for any and all costs or expenses incurred by City due to or arising from the failure to relocate the facilities.
- (b) The City reserves the right to lay, construct, repair, alter, relocate, and maintain subsurface or other facilities or improvements of any type or description in a governmental and water, sewer and Electric Utility capacity, but not in a proprietary capacity within the right-of-way over which the franchise is granted. If the City finds that the location or relocation of such facilities or improvements conflicts with the property or appurtenances laid, constructed, or maintained by the State Franchise Holder, the City shall notify the State Franchise Holder of such conflict. To the extent and in the manner required by applicable law, the State Franchise Holder will relocate its facilities as requested by the City.

#### 5.17.150 REMOVAL OF ABANDONED FACILITIES.

Upon the abandonment of all or a portion of its property, the State Franchise Holder shall remove the property in accordance with the terms of Chapter 12.04. If the State Franchise Holder fails to comply with the terms and conditions of abandonment as may be required by this Chapter and Chapter 12.04, the Director of Public Works may direct the State Franchise Holder to remove, or cause to be removed, such facilities at the State Franchise Holder's expense and the State Franchise Holder shall pay to the City the cost of such work. Such decision may be appealed by the State Franchise Holder to the City Council.

#### 5.17.160 NOTIFICATION TO RESIDENTS REGARDING CONSTRUCTION OR MAINTENANCE.

- (a) Prior to any construction activity related to any cable service or video service, a State Franchise Holder shall provide public notification as required by applicable law.
- (b) To the extent practicable, equipment placed on private property shall be placed at the location requested by the property owner..

#### 5.17.170 IDENTIFICATION REQUIRED.

Employees, agents, contractors, and subcontractors of any State Franchise Holder shall at all times be properly identified as employees or agents of the State Franchise Holder while performing any work or other activity within the City on behalf of the State Franchise Holder. Identification shall include the name of the employee or agent. The name and telephone number of the State Franchise Holder shall appear at all construction sites.

#### 5.17.180 CONSTRUCTION REQUIREMENTS AND PROTECTION OF HEALTH AND SAFETY.

Each State Franchise Holder shall comply with all applicable construction requirements of Chapter 12.04 and shall undertake all necessary and appropriate means to protect and preserve health and safety, including complying with all construction requirements of Chapter 12.04 or as otherwise required by the Director of Public Works.

#### 5.17.200 EMERGENCY ALERT SYSTEMS.

Each State Franchise Holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the State Franchise Holder's network.

#### 5.17.210 INTERCONNECTION FOR PEG PROGRAMMING.

Each holder of a State Franchise and each incumbent cable operator operating under a City franchise issued pursuant to this Code, shall negotiate with each other in good faith to interconnect their networks for the purpose of providing PEG programming including, but not limited to, any exclusive City use channel. Interconnection may be accomplished by any means authorized under California Public Utilities Code Section 5870(h). Each holder of a State Franchise and any incumbent cable operator shall provide interconnection of PEG channels, including any exclusive City use channel on reasonable terms and conditions and may not withhold the interconnection. If a holder of a State Franchise and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the City may require the incumbent cable operator to allow the holder of the State Franchise to interconnect its network with the incumbent cable operator's network at a technically feasible point on the State Franchise Holder's network as identified by the Holder or as otherwise permitted by applicable law. If no technically feasible point for interconnection is available, the holder of a State Franchise shall make an interconnection available to the channel originator and shall provide the

facilities necessary for the interconnection. The cost of any interconnection shall be borne by the State Franchise Holder requesting the interconnection unless otherwise agreed to by the State Franchise Holder and the incumbent cable operator. To the extent not inconsistent with California Public Utilities Code Section 5870(h), the City Manager or the City Manager's designee may waive or defer this requirement of interconnection in his or her sole discretion.

#### 5.17.220 NOTICES.

- (a) Each State Franchise Holder or applicant for a state franchise shall file with the City Manager and with the City's communications specialist or other City Manager designee a copy of all applications that the State Franchise Holder or applicant is required to file with the Public Utilities Commission with respect to state franchised video service in the City.
- (b) Unless otherwise specified in this Chapter, all notices or other documentation that a State Franchise Holder is required to provide to the City under this Chapter or the California Public Utilities Code shall be provided to the City Manager and to the City's communications specialist.

#### 5.17.230 RIGHTS RESERVED.

The rights reserved to the City of Lodi under this Chapter are in addition to all other applicable rights of the City, whether granted or reserved by other provisions of the Lodi Municipal Code or as otherwise authorized by federal or state law, and no action, proceeding, or exercise of a right by the City of Lodi shall affect any other rights which may be held by the City of Lodi.

#### 5.17.240 COMPLIANCE WITH LAW.

Nothing contained in this Chapter shall be construed to exempt a State Franchise Holder from compliance with all applicable ordinances, rules, or regulations of the City of Lodi now in effect or which may be adopted that are not inconsistent with this Chapter or California Public Utilities Code Section 5800 et seq.

SECTION 2. All other provisions of Lodi Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 3. Any provisions of the Lodi Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 6. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

SECTION 7. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 8. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 9. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 10. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal laws and this Ordinance shall be construed in light of that intent.

SECTION 11. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect thirty days from and after its passage and approval.

Approved this 18<sup>th</sup> day of November, 2009

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LARRY D. HANSEN  
Mayor

Attest:

RANDI JOHL  
City Clerk

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State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1826 was introduced at a regular meeting of the City Council of the City of Lodi held November 4, 2009, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held November 18, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1826 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL  
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
City Attorney